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ABSTRACT

This report is divided into two parts. It is an effort by individuals in Columbus, Ohio to inform and aid citizens interested in knowing more about cable television and how to use it. The first half offers factual information, the experience of other communities using cable, the laws governing cable and comments on issues facing the community. The second half consist of appendixes to educate the reader. The appendixes include: (1) an annotated bibliography; (2) the Columbus Cable Ordinance; (3) the Federal Communication Commission (FCC) Cable Television Rules, 1972; FCC Clarification--1974; and (5) the community colleges' use of cable. (WCM)

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CABLE TV IN COLUMBUS

WHAT'S HAPPENING/WHAT CAN HAPPEN

IR000 947

THE DESIGN CENTER FOR COMMUNITY COMMUNICATIONS
COLUMBUS, OHIO/JULY, 1974

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CONTENTS

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Page

Introduction 1

What Is Cable Television? 3

History and Status of Cable Television in Columbus 4

Columbus Cable Ordinance 11

Access Channels 14

Who's Interested in Using Cable T.V. in Columbus? 26

Some Issues 30

Appendix

Appendix A . . . . Bibliography

Appendix B . . . . Columbus Cable Ordinance

Appendix C . . . . Federal Communications Commission Cable Television Rules 1972

Appendix D . . . . F.C.C. Clarification - 1974

Appendix E . . . . Community Colleges' Use of Cable

Appendix F . . . . Cable TV: Stay Tuned

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INTRODUCTION

Five years have passed since Columbus licensed its first cable television company. Since Columbus cable franchises run for ten years, the City is now at midstream in its experience with this relatively new medium of communications. It is important to examine the experience of the last five years in order to guide the continuing development of cable intelligently. This brief report to the people of Columbus is an attempt to look back -- and to look forward.

We undertook this examination on the premise that the community has a very large stake in the way cable television grows, and that if cable is to provide maximum benefit to the public, the public will first have to understand it. The report offers factual information, experience of other communities in using cable, the laws governing cable and comments on issues facing the community. By no means do we regard this document as the "last word" on cable. It is an effort -- and other organizations and individuals in Columbus, as well as City officials, have been engaged in related efforts -- to inform and aid citizens interested in knowing more about cable and how to use it.

In some cities, heavy demands have been made on the cable systems to provide free services. Sometimes these demands have been met. In some cases, the cable companies worked so closely with communities that facilities and other resources were provided for community purposes without such demands. Our own feeling is that if too much is required of the cable operators as they attempt to build their systems and get subscribers, cable will be handicapped to fulfill its potential value to the community. This does not mean, however, that the community should forego deliberate planning and action to assure that fulfillment.

Some persons have regarded cable television as a cure-all for the ills of society because of its special characteristics. Cable is not a panacea. Used wisely and imaginatively, cable can be a system for improving life in a community.

While cable television nationally is running behind projections for new subscribers and the industry recently has had financial uncertainties, more positive notes now are being heard among investors. By 1985, according to a recent Stanford Research Institute study, the number of cable subscribers will more than triple the present 8 million users, becoming a $3 billion-a-year business.

Cable is here and it will continue to grow. How it is to grow is the question. What is present in Columbus is the opportunity for the public, government and the industry to wisely guide cable's development. The opportunity should not be lost.

Among those who have assisted me in preparing this report are Ms. Ronita Hawes; Ms. Deborah Neal; David Barney; Herbert Cook, and Ms. Betty Snively. Professor Joseph Foley, Professor Grant Hilliker, and Mrs. Patti Johnson read the manuscript and provided helpful comments. Columbus Utilities Director Robert W. Newlon was generous in assisting our work. Any errors or shortcomings in this report, of course, are mine.

Howard Bray
The Design Center for Community Communications

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WHAT IS CABLE TELEVISION?

"Cable derives its special advantages and characteristics as a communications medium from its technology, which is quite complex. At bottom, however, cable television rests on a few relatively simple operational principles.

"A system begins with an antenna, specially engineered for sensitivity and positioned for optimum reception, usually on high ground. The cable antenna picks up broadcast TV signals from the air, in the same way as a home receiver's 'rabbit ears' only much more efficiently. With the help of microwave relays, the cable antenna can tune in on TV broadcasts coming from very distant points, hundreds of miles away.

"These received signals, after suitable amplification at the cable station, are then transmitted to the home sets of subscribers by means of a special kind of wire known as coaxial cable. The cable operator can also generate his own signals - by focusing TV cameras on live events or performances, or by replaying previously videotaped material - and send them to subscribers by the same system.

"Both of cable's major benefits - clear reception and augmented channel capacity - flow from this combination of favorably placed antenna and transmission via coaxial cable. In conventional, broadcast TV, signals are sent, or "radiated", through the air, where they are subject to various disturbing influences, giving rise to the annoying 'snow', wavy lines and other picture distortions familiar to viewers.

"In addition, it's in the nature of radiated TV that only a limited number of signals can be clearly sent or received in any one area, which is why broadcast television can accommodate just three networks and a small number of independent and educational stations.

"It is just these limitations from which cable is free. Interference is reduced to a minimum by the antenna placement and transmission through wires, instead of the air. So pictures are sharp, steady and clear."

Alan M. Kriegsman,
The Washington Post

HISTORY and STATUS
of
CABLE TELEVISION in COLUMBUS

On July 14, 1969, the City of Columbus granted a franchise to Canterbury Cablevision Corporation, the first cable television system to be licensed in the City. (Cable television had come to Ohio almost 20 years earlier when a system was established at Glenmont in Holmes County in 1950). The franchise was awarded under the provisions of City Ordinance 472-69 governing cable television operations in Columbus. The ordinance states the City's belief that the concept of the "wired city" is "valid and ... it will not only become a reality in the foreseeable future but will require a combination of cable and off-the-air transmission for the ultimate in services...." The record indicates that the City Council gave little discussion to the implications of the policy it was establishing. With the exception of one amendment to regulate the franchise payment by cable companies, the ordinance has not been changed. The Office of the Director of Public Utilities oversees the City's cable television franchises.

Columbus is the only city in the nation that has three cable television systems operating; and it may have a fourth.* Robert W. Newlon, the present Director of Utilities, has stated his belief that in awarding several cable licenses, the City Council felt that the competition so generated might regulate the cost of the service and promote rapid coverage of the City by cable systems. The cable systems have developed slowly and much of the City still is unwired.

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*(The City awarded a franchise to Cable Services, Inc., a subsidiary of Goodson-Toddman Cablevision Company, on August 20, 1970. However, no work on the system had taken place by the latter part of 1972, and the City revoked the franchise with the consent of the company. A franchise was awarded to Advanced Cable Company on February 11, 1974.)

Warner

The Warner Cable Corporation of Columbus evolved from Canterbury Cablevision Corporation, Columbus' first cable system. Early in 1971, Canterbury was purchased by Cypress Cablevision Corporation of Columbus. Cypress, because of financial difficulties, merged in the fall of 1972 with Warner Cable Corporation. The franchise now belongs to Warner Cable Corporation of Columbus. Warner Columbus is a subsidiary of the Warner Cable Corporation, the nation's second largest cable corporation, which in turn is a subsidiary of the Warner Communications Corporation of New York City. The Warner Communications Corporation is the parent company; its numerous subsidiaries include Warner Brothers, Inc. Warner Cable Corporation has approximately 100 systems operating in 130 communities with 450,000 subscribers.

Warner reports that it began its first extensive service to subscribers November 1, 1973. With some 8,000 subscribers and 400 miles of cable, Warner operates west of I-71 in Columbus. The City of Upper Arlington gave Warner a permit in 1970. The Warner system in the Columbus area reaches down to Grandview, into the Clintonville area east of Olentangy River Road and down to Cooke Road to Arcadia. Warner's present cable passes 26,000 homes. By the end of 1975 the company hopes to have a wiring density passing 97,000 homes, which is anticipated to serve approximately 24,000 subscribers. Its plans are to serve the remaining unwired areas west of I-71, including Grandview.

Warner Columbus has utilized a mobile unit for both remote and studio programming. Although no specific plans have been established for origination of local programming, Warner has cablecast a few local programs, including an Upper Arlington City Council meeting and the January 25, 1974 public hearing on cable television held by Columbus Utilities Director Robert W. Newlon -- an example of how future meetings of the City Council, the school board, and other public bodies could be videotaped for home viewing or carried live.

Warner Cable of Columbus has its main office at 4284 North High Street. Studio and office facilities are now under construction. Warner also has an office and a potential studio at 2000 Henderson Road which serves the Upper Arlington area. Warner considers the Upper Arlington system to be a part of their Columbus operation. A potential studio and an antenna also are located at Morse and Stelzer Roads. Warner originally had planned its facilities to adequately cable the entire Columbus area. However, the granting of a number of other franchises by the City resulted in the company changing its plans.

Al Williams is the general manager of Warner Columbus and Nyhl Henson is program director. Telephone: 614 - 261-0001.

Coaxial

Coaxial Communications, Inc. of Columbus is the City's largest cable system. Coaxial Columbus, franchised since May 12, 1970, was the first company to actually provide cable programming in the City. Coaxial is a subsidiary of Coaxial Communications, Inc. of Sarasota, Florida. The parent organization has 21 small systems located in Georgia, Alabama, Florida, and Ohio. Columbus is its largest system and the company considers the City to be the center of its operations.

At the time Coaxial began operating in early 1971, cable companies were not allowed by the Federal Communications Commission to import signals from distant television stations. Coaxial had little to offer subscribers other than the four Columbus television channels already generally available to area audiences and whatever programs that it could originate. This included local hockey, football, and basketball games, along with community events such as parades. Coaxial ended this kind of programming because it believed there was insufficient subscriber interest. By the end of 1971 the company had 175 miles of cable capable of serving 30,000 houses. After the F.C.C., in 1972, modified its regulations to permit cable operators to import distant television signals, Coaxial became one of the first systems in the United States to receive such signals. In October that year, Coaxial began marketing its expanded services.

As of mid-July, 1974, Coaxial reported having 14,000 subscribers northeast of I-71. By year's end, it expects that number to rise to 20,000. It is doubling its capability to serve a potential of 60,000 subscribers. This coverage includes Whitehall, which franchised Coaxial January 5, 1971. Coaxial is building a cable system in Whitehall projected for completion in 1975. The company is waiting for F.C.C. certification to operate there.

Coaxial plans to expand its operations to cover areas east of I-71 and north of Livingston Avenue. The only sections of this area that will not be immediately wired are those in which the cable must be installed underground rather than on utility poles. Coaxial also hopes to penetrate the cities of Gahanna, Reynoldsburg and Westerville. Coaxial is franchised by Grove City and Upper Arlington. The latter franchise has not been developed because Warner is operating in Upper Arlington.

Coaxial has a service, albeit experimental, unique in cable systems in Columbus. The company, since June 1973, has leased channels to Telecinema, an organization which offers movies to subscribers on a pay basis. Telecinema supplies devices called converters to Coaxial subscribers that signal the choice of movie and the price to the Telecinema studios, which then cablecasts the movie to the customer. Movie prices range from $1.50 to $2. Monthly bills for the service usually are $4 to $6. There are presently 1,000 homes involved in the experiment in Columbus, and Coaxial says that it is pleased with the results thus far. This satisfaction is indicated by the company's expectation that it will be able to offer movies-for-pay to all of its customers sometime during the first six months of 1975. The movies that are shown on pay-TV cannot, by F.C.C. rules, be more than two years old. Approximately 15 other cities are participating in similar experiments. However, Columbus is one of the few cities experimenting with a two-way system.

Coaxial also is the first cable television company in Columbus actually to use the capability for two-way signals that the F.C.C. requires be provided in cable television plants established since 1972.

Because Coaxial was in operation prior to the Federal Communications Commission's 1972 ruling on public access, local governmental and educational channels, the company is not required to provide these services until 1977. However, Coaxial management has indicated that, if there is a demand for the use of these channels, they will be made available. The Coaxial studio at 3770 East Livingston Avenue is available for local program production if interest is generated within the community. Although the Coaxial remote mobile studio is available, no local programming is done currently.

In addition to its offices at 3770 East Livingston, Coaxial has facilities at Beulah Road adjacent to I-71 and another site on Cleveland Avenue.

Tom Sonsini is general manager of Coaxial in Columbus. Telephone: 614 - 236-8698.

All-American

All-American Cablevision Company is a subsidiary of the American Television and Communications Corporation of Denver, Colorado. The American Television and Communications Corporation (ATC) is the nation's fifth largest multiple-owned system, serving more than 310,000 subscribers in 124 communities in 30 states.

All-American received its franchise from the City of Columbus on March 8, 1971, and from Franklin County in March, 1974. The company received its certification to operate from the F.C.C. on August 18, 1972. Early the company had aspirations of servicing the entire city. But the development of other cable systems substantially reduced All-American's hopes. All-American currently services the southeastern area of Columbus, including German Village. It plans expansion south of Livingston Avenue and east of I-71.

As of mid-July, 1974, All-American had approximately 8,500 subscribers. During early spring, the company reported making about 500 to 600 installations a week, a higher rate of hookups than its local manager publicly projected in late January. By July, 1974, All-American estimates having 11,000 subscribers. The company says definite plans for future programming and service to the community will be made after this goal is achieved. Most of such planning, however, is done at the corporate level by officials of the parent company in Denver.

Although the company has no local origination programming at present, it does plan to do local programming in the near future. While All-American reports that it has a channel available for public access, no use has been made of it. No effort has been made to interest community members who might take advantage of this channel. The company asserts that, by selling its service to as many homes as possible, it hopes to build an audience for future public access programming.

Channels also have been reserved for educational use and for the City government, according to All-American. To date, no governmental or educational agency has made any official use of these channels. All-American has not made any formal contact with the City's schools or public agencies because the company executives define their major responsibility to be of service to the residential community. The company's offices are at 105 Sycamore Street. The receiving antenna is located at 1980 Alumcreek Drive.

Larry Janes is general manager of All-American Cablevision. Tom Crowley is the company's marketing executive. Telephone: 614 - 443-4671.

Advanced Cable

The Advanced Cable Company is an independent cable system that was incorporated on October 12, 1973. As the only minority-owned cable company in Columbus, Advanced organized with the aspiration of serving Columbus' Model Cities area. Advanced received a franchise from the City of Columbus on February 11, 1974, and is waiting for its Certificate of Compliance from the Federal Communications Commission. The company expects F.C.C. certification by the latter part of the summer or fall of 1974 to permit it to undertake operations. Advanced plans to begin construction in 1974, after it has surveyed the Model Cities area and obtains pole rights. Jackson Communication Corporation, of Clayton, Ohio, will build the system.

Curtis Strozier is president-treasurer of Advanced; Robert Kapp, first vice-president for engineering; Joseph Cumberlander, vice president, and William T. Johnson, secretary.

What can a cable subscriber now see? All cable systems carry the three local television network affiliates, W.L.W.C., W.T.V.N., W.B.N.S., and the public television station W.O.S.U. They also "import" three independent television stations, W.U.A.B. and W.K.B.F. from Cleveland, and W.X.I.X. from

Cincinnati. These three imported signals do not duplicate network programming. The three imported signals are the maximum allowed by the Federal Communications Commission. All cable systems in Columbus also offer channels that carry a 24-hour time and weather service, stock ticker, and a bulletin board listing upcoming community events and cable programs. (The newspapers do not carry cable program schedules.) Taped FM music supplies the background for these automated channels.

What does the service cost? The City ordinance sets $15 as the maximum charge for connecting the first television set to the cable system and a maximum of $2.50 for each additional set. The maximum charge for the basic cable service is $5 a month for the first set and $1.50 for each additional set. All operating cable systems in Columbus charge these maximum rates. The companies must have the approval of the City Council before making any changes in their rates.

THE COLUMBUS CABLE ORDINANCE

The City's authority and basic policy regarding cable television is set forth in the City Code, Article XIII, Chapter 595. A copy of the ordinance is Appendix B of this report. In brief, the key provisions of the ordinance are:

- Franchises are awarded by the City Council and can be revoked for cause by a simple majority vote of the Council. The Columbus franchise period is ten years. Upper Arlington also awards 10-year licences; Whitehall franchises for 12 years, and Grove City, 15 years. Franchises are renewable at the City Council's option for succeeding periods of ten years each. (The cable company must have approval of the Federal Communications Commission before it can start operating.) Timetables for planning and construction are stated to assure progress in development of the cable system.

- Franchises are non-exclusive, allowing for other permits to be awarded for the same area. A franchise-holder "insofar as is technically and economically practical shall" serve all of the city. In reality, the city has been divided by written order of the Director of Utilities, with each cable company gaining an effective exclusive permit for the areas it serves.

- Companies pay the City a minimum annual fee of $5,000, credited to an annual tax of six percent of gross receipts.

- Service is required to produce undistorted pictures and good sound. Moreover, the operator "will strive, insofar as is practical, for the betterment of his system, taking advantage of all reasonable improvements as they become available to him". As cable technology advances, this provision could be of significance to subscribers.

- Maximum installation charge is $15 for the first television set and a maximum of $2.50 for each additional set. The maximum monthly charge for basic service is $5 for the first television set, $1.50 for each additional set. In some instances, companies have offered free installation to persons who would subscribe to cable service. The chart below compares the Columbus rates with those provided by ordinances in three other Franklin County cities:

	Columbus	Upper Arlington	Whitehall	Grove City
Installation	$ 15.00	15.00	10.00	10.00
Each Additional Set	2.50	7.50	7.50	5.00
Basic Monthly Service	5.00	5.00	5.00	5.00
Each Additional Set	1.50	1.50	1.50	1.50

- Two provisions anticipate the possibility of changes in rates. The first provides that if a use tax is imposed on cable charges, the tax can be passed on to subscribers. The second allows the company to apply to the Council for higher rates if service is expanded beyond the present 12 television channels.

- Pay television (programming for which an extra fee is charged) is permitted as is the sale of advertising on programs the company originates locally.

- The companies are required to provide free installation and basic service to all public and parochial schools, colleges and universities, and city recreation centers on their written request, if they are located close (interpreted by Director of Utilities Newlon as within two blocks) to the systems' lines. Operators also must provide free, to at least three City offices, equipment to enable the city to monitor cable services. The City Safety Director, in an emergency, is to be provided free use of the cable facilities.

- While the ordinances of Columbus, Upper Arlington, Grove City and Whitehall are generally the same, there are differences worth noting in terms of services to public agencies. The Whitehall law provides that the company shall provide free one seperate channel to that City government for public interest programming and, also free, another channel for use by the elementary and secondary schools. The operator there also is required to interconnect those schools, thus making possible two-way communication between the schools and a central programming facility. Whitehall may appoint a Television Coordinator or a committee to act as the City's liaison with the operator on use of those channels. Whitehall also requires that they provide free hookups and regular service to each library, hospital, and police and fire stations. One channel in Upper Arlington and Grove City also is reserved for exclusive use by the City government. The Whitehall and Grove City ordinances reserve six megacycles of the cable systems' bandwidth for those City governments' two-way voice and data transmissions.

- Columbus prohibits the cable operator from allowing the system's facilities to be used for "political or other partisan purposes unless, as a matter of publicly stated policy, he had adopted guidelines calling for strict adherence to 'the F.C.C.'s regulations for political broadcasts including the 'Fairness Doctrine.'" Under this doctrine, cablecasters must provide an opportunity for opposing views on controversial issues to be aired. Federal law requires cablecasters to provide "equal time" to all opposing political candidates if they permit one candidate to air his views. It should be noted here that the Federal laws and rules governing the treatment of political issues by broadcasters and cablecasters are designed to guarantee balanced presentations.

In stating its intent toward cable television, the City Council recognized the companies' need for profitable and worthwhile investments lest additional capital for expansion of the services be unavailable. While providing the City Council the option for a "thorough annual review" of the fairness of cable rates and the fees paid to the City by the operators, the overwhelming consideration in any review is to be the "propriety of charges for service versus the service itself..." rather than the operators' profit and loss record alone.

ACCESS CHANNELS

> "We believe that cable development has the potential of creating an electronic medium of communications more diverse, more pluralistic, and more open, more like the print and film media than our present broadcast system. It could provide minority groups, ethnic groups, the aged, the young, or people living in the same neighborhood an opportunity to express, and to see expressed, their own views. Yet it would also enable all of these groups to be exposed to the views of others, free of the homogenity which characterizes contemporary television programming.
>
> "Cable offers countless Americans a chance to speak for themselves and among themselves in their own way, and a chance to share with one another their experiences, their opinions, their frustrations, and their hopes. Rather than increase the alienation of individual from individual and group from group, cable could combine the shared experience of national television with a type of active participation in the political and social process that was common in the days before urbanization eroded the opportunity for personal involvement in events that affected the community."

In those words, the President's Cabinet Committee on Cable Television early in 1974 described the most socially valuable feature of cable -- the feature that with wise and responsible public policy can distinguish cable from broadcasting. In some American communities, the "potential" foreseen by the Cabinet Committee is already being attained. This section reports on access -- the ability or right of the public to use channels to originate programming. Requirements for access channels were announced by the Federal Communications Commission in 1972. These requirements do not apply to the three operating cable systems in Columbus because of a "grandfather clause" in the Federal regulations; however, all systems must provide access channels by March 31, 1977. The cable operators in Columbus have indicated willingness, in varying degrees, to provide access. F.C.C. rules require:

Public access service: One free channel for the use of the general public on a non-discriminatory, first-come, first-served basis.

Educational access service: One channel, free for at least five years, reserved for use by local educational authorities.

Government access service: One channel, free for at least five years, reserved for government uses.

The rules also require that at least one local origination channel, under the control of the cable operator, be devoted to local, non-automated programming. (An example of an automated program is one carrying a news and stock ticker and 24-hour weather report.) This requirement is mentioned because in some communities, operators have combined public access and local origination channels while waiting to see how extensively the access channel is used.

The F.C.C. regards its rules on the access channels as experimental, allowing five years in which to assess the demand for the services and the practices in meeting that demand. The experiment is now at the half-way mark. A number of significant efforts have occurred in the use of access that may offer valuable insights to those in Columbus interested in using the access channels.

One of the most systematic efforts to build community interest in access, train non-professional users and chronicle and evaluate the experience has been undertaken by the Alternate Media Center of New York University. The Center program over the past two-and-a-half years has covered Reading, Pa. and Orlando, Fla. (both with the help of American Television and Communications Corporation, parent company of All-American in Columbus); Bakersfield, Cal. and Dekalb, Ill. (both with companies since absorbed by Warner Communications, one of the operators in Columbus); and in three areas of Manhattan. Ms. Red Burns, executive director of the Alternate Media Center, summarized what occurred:

> "In no case have any of the concerns expressed early on about abuse of equipment or abuse of the privilege of access been borne out in the experience ... On the contrary, every community represented here, given the means to design and control a community channel, has responded with amazing energy, commitment and responsibility. Self-censorship of material has come to be the way of dealing with questions of legal liability, obscenity, and community standards of taste.
>
> "The making of videotapes is only a part of what public access has become ... Given the cooperation of the local cable system, community groups and individuals have begun to design new communications systems, using whatever devices come to hand -- the telephone, the studio, tapes, slides, live remote -- whatever met the communications needs of the project. We have urged people not to concentrate on turning people on to video or cable, but to think in terms of what cable can mean to the community they live in..."[emphasis added]

In the following excerpt from The Access Workbook, published by the Alternate Media Center, Red Burns responds to the question: "How can I get public access started in my community?" She emphasizes the need for good-faith cooperation between the community and the cable operator. And she strongly urges that persons and organizations who want to use access understand what is involved -- "do your homework", advises Burns.

CABLE SYSTEM COOPERATION

How can I get public access started in my community? There is no magic formula.

Cable started as a profit-making venture, to make existing over-the-air TV pictures clearer and to import distant signals. It wasn't long before the capacity to *originate* programming as well as to *transmit* it was recognized.

Communities of people saw an opportunity to create a local, inexpensive channel to reach small, discrete audiences--but the cable industry never perceived their systems as social utilities. The lines were sharply drawn. The industry, operating from a legitimate profit-base, wanted to get cable systems operating, and in the rush to acquire franchises, joined the visionaries with "blue sky" promises. Communities of people were then taken aback when their demands were not eagerly met by the operators. The response from the cable industry was "give us time to get some of our capital outlay back and then we can talk about access." The communities were concerned about having their options closed out. Since no one clearly envisioned what access would be, the discussions have been approached by the different interests from different perspectives.

In March 1972, the eagerly awaited FCC Cable Report and Order was issued. In the area of public access, the FCC mandated a public access channel in the top 100 markets and five minutes of free time. The FCC also ruled that the period between March 1972 and March 1977 would be experimental. Nobody was happy. Communities wanted regulations to provide more than allocation of a channel--they wanted a formula that would provide financial support for equipment and training and publicity. The cable industry on the other hand, wanted restricutve rules lifted, so that it might grow and find its place in the growing communications industry in this country. The FCC policy reflected a "wait and see" attitude. We are now in the middle of that five-year period.

So, we have the FCC suggesting that it is too early to lock-in regulations; we have communities of people wanting to use the cable; we have a fledgling cable industry hamstrung by restrictions, dependant on high start-up capital costs, with the promise of profits delayed into the future. The stakes are high. Frustrations build as solutions are sought to ensure that the public has its day along with the industry.

The Alternate Media Center at New York University School of the Arts came into the cable television field under a grant from the John and Mary R. Markle Foundation. As part of a school vitally interested in new communications technology, we were aware of the chasm between the rhetoric of access and the reality of it, and felt that a useful function could be served by trying to fill that lack.

From the beginning, we saw public access as possible only if the cable system and the community *both* benefited. After all, the life blood of a cable system is its community. Without their support, the cable cannot flourish. Similarly, the life blood of a community is its communications system. As electronic communication develops, we recognize that cable television will play an increasingly vital role in community communications systems.

In order to establish whether or not access was viable, we first had to find out *what access was*. We elected to put our energies into public access projects which would engage both communities and the cable industry as partners. These projects were experimental structures for which no blueprints had ever been designed.

American Television and Communications Corporation offered us our first opportunity in Reading, Pennsylvania. Public access was introduced in their Berks-Suburban Cable System in January 1972. As of January 1974, Earl Haydt, the Manager of that system, joined the already existing local origination facilities with the public access facility under the banner of "Community Access." The Reading community, already active in public access, had demonstrated that they could take responsibility for a community channel and were eager to pursue the idea. The development in Reading was a fortunate coalescence of corporate support, community initiative, and enlightened local management. What happened in Reading and in other access centers is described in a companion piece to this volume, *The Public Access Experience*. This experimentation is being undertaken by real people in real places with real cable systems.

How can a community and a cable system go about establishing a cooperative relationship? It is not an easy task, but it can be made easier by understanding what is involved, and this is easier said than done. Often both sides have insufficient information and find themselves negotiating in the dark. The cable operator is understandably fearful of opening up a public facility because he has no idea what it will be and what will go on there. He could be opening a Pandora's box. Since he is not required to provide more than minimums, the community must be prepared to show the cable system why it is in his interest to support an access facility.

A community is a diverse group of people who have little in common besides living in the same area and their unfamiliarity with cable television. They are, in effect, being asked to subscribe to a cable that is a pig in a poke, and by the same token, the cable operator is making a major investment in wiring an area that is largely unknown. Marketing analysts have provided him with information based on commercial interests. Since the questions asked in marketing surveys about access are before the fact – or not asked at all – response indicates that public access is not a serious interest. The cable operator needs to know if public access will attract more subscribers to the cable. Also, will it help him get a better understanding of the community? If the cable operator has a better understanding of the community, he can market more effectively.

In Orlando, Joe Collins, Manager of Orange Cablevision, was justifiably skeptical about public access until he saw evidence that access meant *community involvement:* a mutually helpful relationship, rather than the one-way street of *public service*. He was pleased to have the opportunity to reach new segments of the community through a cooperative working arrangement. Further, the access center is serving as a meeting ground where cable management gets to know the community. Joe Collins is a marketing professional who understands that the success of his system depends on the community. The more the community appreciates and understands the cable, the more effective and successful his system will be. The outcome of the community/cable dialogue depends on how that dialogue is carried out as much as on what is said. The most encouraging atmosphere comes about when a cooperative exploration to enhance the cable is the basis of discussion, so that it better serves the interests of both the community and the cable operator.

If you live in a community and want to get access started--*do your homework*. If there is cable, what does the existing franchise provide? How many homes are passed? What is the potential in the market? Who are you? Do you represent yourself or groups of community interest? Have you encouraged discussion within the community to define community goals? Is the group open-ended and welcoming to most people in the community? *Before* you present yourself to the local cable operator, be informed about the system as well as the community. Where cable has not yet been franchised, open local discussions, including as broad a cross-section as possible, with the cooperation of the city council who will ultimately be responsible for the granting of a franchise.

At the outset, nobody owes anybody anything. Trying to start a dialogue from an adversary relationship will only waste energy and creativity that could have gone towards developing a truly local communications system. Obviously, there are some cities and towns where the cable operator may have been unresponsive. If he has held this position in the face of broad-based community support, you may appeal to the city for possible amendments to the franchise, or if you are dealing with a local system or a multi-systems operator, you can appeal to the head office.

As communities insist that the operator must understand their needs, so must the community understand the needs of the local cable operator. Only twelve per cent of the country is cabled. For those communities without cable, there is much to be learned from the experience of others. For those communities where cable is grandfathered under the 1972 rules, discussion to create public access can be considered when the rate increases are requested. In communities where there is an access channel and an adherence to the five-minute FCC rules, viable strategies to benefit the community and cable must be developed.

There is obviously no one way to go about creating a healthy and growing community access center. Our own experiences have demonstrated that there is a large gap between the rhetoric and the actuality. We do know that it works--when access is conceived as a partnership of interests in the beginning. The growth of a community information system can be achieved if there is both broad-based community support and cable system support. The goals should be spelled out and the understanding clear at the outset.

— Red Burns

Costs

The F.C.C. rules provide that the operator "shall maintain and have available for public use at least the minimal equipment and facilities necessary for the production of programming" for the access channel. Up to five minutes of free production time are to be provided to a user; the operator can charge for production costs beyond that. This provision does not limit anyone from free use of the access channel to cablecast his or her own films and videotapes.

A study on the public access experience in New York City* reported that costs to public access users range from nothing to over $1,600 for a half-hour. With borrowed equipment, a person can produce a program for just the cost of the videotape -- now about $30 for an hour's supply. Rental of simple portable equipment runs about $75 per day, $225 per week and $450 per month. The cost of tape and equipment rental would bring the cost of producing two hours of programming to about $130. The New York study says that a group organized to produce for public access, including salaries and overhead, "will spend anywhere from $200 to $1,000 per hour depending on the complexity of the production and the overhead."

It can be seen that costs of access production run all over the lot, from zero up. The cable operator may be willing to pay the cost of producing programs on the system's local origination channel that are the equivalent of many access productions as far as community interest. A discussion of local issues airing divergent points of view, a videotape of a civic group meeting or neighborhood art show are examples of such programs. While providing for free channels, the F.C.C. recently declared its stance against excessive demands on cable operators for paying the costs of programming for the access channels.

Cable operators must rely quite heavily on local groups and individuals for non-broadcast programming. While all of the systems may not have a lot of money for a while, they do have a lot of unfilled channel capacity. The access channels, while free, may also turn out to be attractive to some potential subscribers. The interests of cable operators and those of the community seemingly could be in confluence.

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*(The Wired Island: The First 2 Years of Public Access to Cable Television in Manhattan. David Othmer, September, 1973. Fund for the City of New York, 1133 Avenue of the Americas, New York, N.Y. 10036)

Columbus officials have given thought to the possibility of using a portion of the revenue from the cable franchise fee to help support public access activities. The F.C.C., as a general rule, holds that the fee should be used for the costs of regulating the franchise. In the case of Columbus, this means that the fee could help meet part of the budget of the Division of Utilities. The F.C.C. will consider requests to waive the rule on franchise fees, but the burden is on the applicant to make a very detailed showing to support the request.

Educational Access

Recognizing the possibilities cable holds for enhancing education, the F.C.C. ruled in 1972 that cable systems must provide a free educational access channel. The channel must be available from the start of cable service until five years after the basic trunk line is completed. The operator must set rules for operation of the channel; however, he does not control program content except that he must prohibit commercial and political advertising, lottery information (as in cablecasting rules), and obscene and indecent matter. A complete record of names and addresses for all persons or groups requesting time must be open for public inspection.

WHO MAY USE THE EDUCATION CHANNEL?

The F.C.C. has specified only that the channel is for use by "local educational authorities". "Our concept," said the F.C.C., "was not meant to restrict the use of this channel to the local public school board." The channel is not exclusively for the use of any one group - be it the public or educational broadcaster, a school or other educational group. "It might be possible, for instance, for a high school and a college to produce complementary instructional programming of benefit to both," the F.C.C. suggested. There is no requirement that the educational programming be formal, for classroom consumption or for credit. The subject matter can span a vast, if not unlimited, range of subjects and the format can be varied as ingenuity, equipment and the skill of the producer allow. We know that a great deal of learning occurs outside the classroom. The special characteristics of cable, including its capacity to receive signals back from subscribers, offers exciting prospects for those who would devote time and resources to its application for education.

WHAT IS THE ORDER OF ACCESS AND TIME ALLOCATIONS?

No requirement exists for first-come, first-served access on the educational channel. Order of access and time allocation are first usually a function of demand.

WHO IS RESPONSIBLE FOR PRODUCTION COSTS AND FACILITIES?

The cable system owner is not required to provide production facilities for the educational channel user. However, in some cases, cable system owners may find that they are able to provide such facilities. If systems do provide production facilities, they may charge for use. Often schools and universities have audio-visual facilities and equipment that are not fully used.

WHO IS RESPONSIBLE FOR THE FUNDING AND PROMOTION OF THE EDUCATIONAL ACCESS CHANNEL?

There are no F.C.C. requirements on the operator to do so. Those interested in using this channel, whether institutions, organizations or individuals should assess the availability of public and private funding.

Some examples of educational uses of cable television:

- In Overland Park, Kan., a high school course for invalid children has been conducted by two-way cable.
- A system in St. Cloud, Minn., features in-service training for teachers.
- In Mobile, Ala., the public library fulfills requests for information three hours daily in response to viewers' phone calls.

Appendix C summarizes what some community colleges are doing on cable.

Government Access

Under the F.C.C. rules, the operating cable systems in Columbus must provide a free channel for use by government by March 31, 1977. That does not bar public officials and agencies from the existing channels. With the cooperation of the cable operators, officials could be reporting to citizens on government activities and responding to questions or requests for service. In Reading, Pa., the Mayor goes on the cable weekly to report to the people -- a telephone in front of him to take calls from viewers. Elsewhere city council, school board, meetings of other public bodies have been cablecast live or on videotape. Local broadcast television rarely devotes much air time to such proceedings, as important to the public as they might be, because of the scarcity of free public service time. A minute or two on the evening news is about the most coverage such meetings generate, and then only if they are particularly eventful. Broadcasters sell most of their time -- cable operators sell their service. That's not to say that all of us, or even a great many, will turn to the channel carrying such programs. But since a cable system has at least a dozen channels and will have more in the future, those interested in observing at home city council and similar proceedings can be served.

The possible uses of the government channel extend far beyond coverage of meetings. Access programming can provide consumer information, health counseling, in-service training to public employees, traffic monitoring and data transmission to indicate some uses. Government and citizens, in cooperation with the cable companies, should be examining these possibilities. They will require resources -- money, skill, energy, interest and dedication. Careful analysis is likely to show that those resources exist in most communities.

WHO'S INTERESTED IN USING CABLE T.V. IN COLUMBUS?

The Columbus cable television ordinance opens the way to use of the systems by local government and schools and colleges. Regulations of the Federal Communications Commission require new systems not only to provide, without charge, one channel for local government and one for education, but to also set aside a free channel for public access and one for the cable operator to transmit non-automated local programming, i.e., local origination. The three cable companies now operating in Columbus do not have to comply with these F.C.C. rules until 1977. The Federal rules and the City requirements are based on the fact that cable can provide, at no cost or relatively little cost, channels for a variety of public uses beyond those that carry regular television fare. There are costs incurred, however, in producing the programming for those channels. An increasing number of cable companies throughout the nation are offering individuals and community groups the use of their studios to present statements on issues, videotapes and films produced by groups and individuals and programs of far-ranging style and content. In some cases, the operators have turned over control of the public access channel to the community with non-professionals taught how to use the studio and portable equipment. In this way, cable television is starting to fulfill the aspirations of its proponents as a true community communications medium.

In Columbus, individuals, groups and organizations have begun taking an interest in using cable facilities to produce their own programs or in encouraging the operators to produce local programs on particular subjects. As part of this report, we have identified a number of parties interested in the access and local origination channels. By no means have we covered all of them. No doubt there are more citizens, institutions and organizations who are exploring the use of cable. Indeed, as actual use of access and local origination grows, experience elsewhere shows that the number and diversity of users also will increase. We offer the following information to indicate that Columbus has at least a core of actual and potential cable users. While the cable operators understandably have devoted virtually all of their energy to getting their facilities constructed and operating and selling subscriptions, the companies -- in varying degrees of effort -- have solicited some persons and organizations for their ideas on access and origination. However, as is noted in the earlier section on Access, the operators have not promoted publicly and enthusiastically such use of these channels.

Ohio Council of Churches 89 E. Wilson Bridge Road Worthington, Ohio 43085 885-9590 Mrs. Patti Johnson, Director of Communications	-	The Council recently employed Linda Thornburg to work in community organization and to facilitate use of public access channel by Clintonville-Beechwold area residents. The Clintonville Community Resources Center is cooperating.
League of Women Voters 65 S. Fourth St. 221-1743 Mrs. Evelyn B. Behm	-	The League is planning to use the cable in Upper Arlington in connection with local elections for public office and for educational programming at Upper Arlington High School.
Columbus Board of Education Radio, Television and Audio-Visual Department 270 E. State St. 225-2750 John H. Sittig, Director	-	While examining the feasibility of using cable, Mr. Sittig feels that instructional programming from the Ohio Educational Television Network serves the schools' needs now. He also believes that the schools are not generating ideas for use of the access channels because the cable operators are not now concerned with developing these channels. Only one of the City's 170 public schools, Southmoor, has the capability to receive cable service throughout the school. Smith Road, Eastmoor and Woodward Park schools are being hooked to a cable system.

Columbus Education Association - The Association is looking at the uses of cable with Mr. Sittig to benefit classroom teachers.
700 E. Broad St.

228-6561

Columbus Public Libraries - Some time ago, the libraries did book reviews on the Coaxial system. Discussions are being held with Warner about possible library use of that system.
Grant Ave.

461-6572

James E. Ohlstrom

Ohio Institute of Technology - The Institute has a broadcast studio for training in all aspects of production.
1350 Alum Creek Drive

253-7291

Mike Forrest, Dean of Faculty

Data Gang Video - Data Gang has produced a number of video tapes and films on community activities. The non-profit group plans to produce for the access channels.
1353 Highland Ave.

299-2088

Mike Moshell, Robin Thomas,
Yay Gross

Center for Media Development, Inc. - This new commercial organization expects to produce programs for access channels. The corporation is completing a video-tape, "Cable T.V. in Church".
110 W. Lincoln Ave.
Worthington, Ohio 43085

888-7832

James Beck, Director

Mershon Center - Under the editorship of Carol Bessey McCance, publishes CATeleVision, a newsletter covering cable television in Ohio. Interested in cable as a medium of expression and interaction of citizen interests.
The Ohio State University

422-3515

Grant Hilliker

Department of Communication - Interest in research and analysis of all aspects of cable in Ohio. Also many students interested in cable television production.
The Ohio State University

422-3400

Dr. Joseph Foley

Ad Hoc Committee on Cable Television - As a forum for expression of the interests of various public and private organizations and the cable companies, the Committee has met periodically for the past 18 months to discuss cable policies and operations in Ohio.
885-9590
Mrs. Patti Johnson

Citizens Cable Television Board, Inc. - Concerned with all aspects of cable television activities in metropolitan Columbus.
252-1977
Mrs. Francine Hickman, Chairman
Ms. Mary Kay Rose, Co-Chairman
Carl Lambert, Secretary
Berta Lambert, Assistant Secretary
Ms. Gloria J. Parks, Treasurer

One sign of interest by Columbus area students and teachers in making videotapes was the Video Festival sponsored by the Design Center for Community Communications of The Academy for Contemporary Problems. Over 60 high school students and 10 teachers produced videotapes on the theme "The Changing American City". Some 200 persons attended the program at which tapes were shown and production techniques demonstrated. The Center for Science and Industry and schools provided equipment and instruction to students. Schools represented were: Northland, Upper Arlington, Whetstone, South, Worthington Alternative, Walnut Ridge, Watterson, Bexley and Eastmoor. The Columbus public schools offer mini-courses in video to students. It is clear that a pool of student, teacher and institutional interest and competence exists in the Columbus area to produce for cable access and local origination channels.

SOME ISSUES

In this brief report, we already have indicated several issues involving cable television in Columbus. These include policies towards use of access channels and division of the City for cable operations.

There are other issues that are emergent and should be noted by persons and organizations concerned about the future development of cable in Columbus. We have not attempted a detailed analysis of these issues. That careful examination, however, should be undertaken by public officials and interested citizens. Nor are we certain that other significant questions of public interest do not exist, either overlooked by this overview or still to emerge. Because of technological advances and the uncertain and unpredictable nature of public policy-making, the latter condition most likely applies.

REGULATION: As noted earlier, the Federal Communicatione Commission and local governments have regulatory control over cable operations. A number of states have enacted regulatory authority, too. Ohio is actively studying various alternatives for a State role in cable regulation. The City of Columbus should keep careful watch on this development to assure full consideration by the State of local community interests in the development of any legislation or administrative procedures relative to cable.

CITY GOVERNMENT: This year the franchise fee will produce about $60,000 for the City's general revenues. The F.C.C. rules permit the use of these fees to meet the costs to local government of regulating the cable companies. Given the complexity of the subject and the continued growth of cable in Columbus, consideration should be given to how these funds could be effectively used to strengthen the City's capacity to oversee and help guide cable activities.

INTERCONNECTION: With several companies operating inside the city and expanding into adjacent areas of Franklin County, the possibilities exist for interconnecting these operations for certain purposes such as access and local origination. Indeed, the cable operators have been discussing this possibility. The City and the community should be involved in any planning of interconnection to assure that such an arrangement, which has many potential benefits, meets the community's needs. Among the concerns is the necessity for equipment compatibility among the systems.

COVERAGE: A good deal of progress has been made towards wiring more areas of the City. In view of the requirements that companies provide service to the entire City, the community and local government should assure that the entire community city is provided cable service.

PRIVACY: At the national level, consideration is being given to legislation that would prohibit snooping and monitoring of communications entering and leaving a citizen's home via cable. This would include a prohibition on disclosing to cable companies the identifiable viewing habits of subscribers in order to prevent abuses of the "wired city". The community and local government should also be alert to this concern, which existing technology makes possible.

ACCESS CHANNELS: The requirement for access channels is an experiment authorized by the F.C.C. If the channels are not effectively used, the requirement may be dropped.

CABLE TELEVISION RESOURCES

June 1974

THE WIRED NATION. Ralph Lee Smith, Harper & Row, 128 pp., paperback, $1.95. Revision: expanded, up-dated to mid-1972.

CABLE TELEVISION: A Guide for Citizen Action, Monroe Price & John Wicklein. Pilgrim Press. 160 pp. $2.95. Available: Office of Communication, United Church of Christ, 289 Park Avenue South, New York City 10010. Best action orientation.

A SHORT COURSE IN CABLE. (Revised June 1, 1972.) 12 page reduction of above, available free, same source. Basic.

COMMUNITY ACCESS VIDEO. A Johnny Videotape "guerilla-type" publication of H. Allan Fredericksen, 695 30th Avenue, Apt. E, Santa Cruz, California 95060. 60 large-size pages, $3.00. Valuable "what to do" and "how to do" resource.

CABLE TELEVISION IN THE CITIES: Community Control, public access and minority ownership. Editor, Charles Tate, The Urban Institute, 2100 M St., N.W., Washington, D.C. 184 pp. $3.95.

COMMUNITY CABLE TV AND YOU. Special Feb. 1971 issue, Challenge for Change Newsletter, National Film Board of Canada, P.O. Box 6100, Montreal, Quebec, Canada. Single copy free. Excellent graphic treatment with light touch.

CABLE INFORMATION. Monthly Newsletter. Cable Information Service, Room 852, 475 Riverside Drive, New York, NY 10027. $10.00 per year. Cumulative resource with index. Only "generalist" periodical publication in cable field. Special emphasis on creative use of dedicated and origination channels.

THE ENIGMA OF A THOUSAND AND ONE CHANNELS. Reprinted from November 1972 issue of Today's Education, special feature on cable television. Good source on the uses of cable television for in-school, in-service, and adult education. National Education Association, 1201 Sixteenth Street, N.W., Washington, D. C. 20036. Single copies available free; packages of ten copies, $1.50 per package. Orders addressed to "CATV Project, NEA" for 200 copies or more will be handled at a 20 percent discount.

CABLE TELEVISION: Franchise Provisions for Schools. NEA's recommendations on franchise provisions for local communities to protect the interest of schools and the communities they serve. 1973. Available free to NEA members; $2.50 per copy for others. Available from CATV Project, National Education Association, 1201 Sixteenth Street, N.W., Washington, D. C. 20036.

SCHOOLS AND CABLE TELEVISION. Comprehensive publication on school use of cable television, including sections on franchise provisions, case study, costs, access for schools and the community, and a bibliography. National Education Association, 1201 Sixteenth Street, N.W., Washington, D.C. 20036. (NEA Stock No. 381-11968) 1971. $2.50.

SCIENTIFIC AMERICAN. Special Communication issue, September 1972. $1.00, Comprehensive, scholarly.

OPEN TO CRITICISM. Robert Lewis Shayon. Beacon Press, Boston. $9.95. TV critic suggests criteria he hopes will be applied to a study of the revolution being brought about by cable.

TELEVISION DIGEST CATV & STATION COVERAGE ATLAS with 35-mile-zone maps. Television Digest, Inc., 1836 Jefferson Place, N.W., Washington, D.C. 20036. $19.50.

CATV. Newsweekly of cable television. Communications Publishing Company, 1900 West Yale Street, Englewood, Colorado 80110. $33.00 for 52 weekly issues. Single copy $2.00.

BROADCASTING MAGAZINE. Has section on cable television. Published weekly. $14.00 per year. 1735 De Sales Street, N.W., Washington, D. C. 20036. Also publish BROADCAST YEARBOOK, $13.50, CATV Source Book $8.00.

CABLE REPORT. 11 months. $15.00. 192 North Clark Street, Chicago, Illinois 60601. Room 607.

FILM LIBRARY QUARTERLY. Summer 1972: New Media Services, Cable TV and Video in the Public Library. $2.00 per issue. Film Library Information Council, Box 348, Radio City Station, New York City 10019.

MAN MADE MOONS: Satellite Communications for Schools, National Education Association. 48 pp., $3.00. NEA, 16th & M Streets, N.W., Washington, D.C. 20036 (NEA Stock No. 381-11994).

VIDEO TOOLS. Summer 1972, Vol. 1, #1. Publication of CTL Electronics, Inc. 86 West Broadway, New York City 10007. Whole range of video equipment and accessories. Write for information. Single copy $1.00. Video club membership $10.00.

GUIDELINES FOR ACCESS. National Cable Television Association, Suite 800, 918-16th Street, N.W., Washington, D.C. Booklet explains how cable operators can fulfill FCC's access requirements.

ACLU GUIDE TO CABLE TV. Guide issued by American Civil Liberties Union discusses cable's background, present status and future potential in layman's language. Devotes last half to cable policies espoused by ACLU. Glossary and bibliography. Author: Fred Powledge. 48 pp. Single copy free from ACLU, 22 East 40th Street, New York City 10016.

BROADBAND COMMUNICATIONS REPORT. Semi-monthly 8 page newsletter devoted to "Applied Urban Technology". Information-packed, authentic, well edited. $48 for 24 issues from Broadband Information Services, Inc., 274 Madison Avenue, New York City 10016.

URBAN TELECOMMUNICATIONS FORUM. Monthly journal of current research and practical state of the art and science of using broadband cable communications in urban areas. Implications for urban interaction, urban dynamics, urban form. 12 monthly issues $17.00 from Urban Telecommunications Forum, 276 Riverside Drive, New York City 10025.

VISIONS OF CABLEVISION: The Prospects for Cable Television in the Greater Cincinnati Area. Robert L. Steiner's report to The Stephen Wilder Foundation exploring the brief history of cable television and examining its impact to date; provides forecasts and makes recommendations for development of cable television in the Greater Cincinnati Area. 1972. Free to residents of Ohio, Kentucky and Indiana; $3.00 for single copies purchased by those outside this area. The Stephen H. Wilder Foundation, 1017 Provident Tower, Cincinnati, Ohio 45202.

YALE REVIEW OF LAW AND SOCIAL ACTION. Special issue on cable: The Cable Fable. $4.00. Vol. 2, No. 3, Spring 1972.

RAND REPORTS ON CABLE TELEVISION prepared under National Science Foundation grant to Rand Communications Policy Program. It includes the following titles, each preceded by the series title Cable Television in the printed copies. (For list write: Communications Department, Rand Corporation, 1700 Main Street, Santa Monica, California 90406.) Some titles:

--A Handbook for Decisionmaking. Walter S. Baer.
--Technical Considerations in Franchising Major Market Systems. Carl Pilnick.
--Uses in Education. Polly Carpenter.

CABLE COMMUNICATIONS IN WISCONSIN: RECOMMENDATIONS. Final Report of The Governor's Blue Ribbon Task Force on Cable Communications. (Document No. 5) February 1973.

REPORT OF THE TASK FORCE ON URBAN CABLE COMMUNICATIONS. Cincinnati City Council. April 1973.

"How Do You Turn on Cable TV?" Stephen Kinzer. Boston Magazine. March 1973.

"Voices on the Cable: Can the Public Be Heard?" Barry Head. Harper's. March 1973.

"Wired In: The Powerful Line Up to Seek CATV Licenses in Many Major Cities." Wayne E. Green. The Wall Street Journal. Wednesday, May 2, 1973.

FCC--CLARIFICATION OF RULES AND NOTICE OF PROPOSED RULEMAKING. Federal Register, Vol. 39, No. 78. Part II, April 22, 1974.

CABLE CAREERS. A description of a new program in cable telecommunications at Middlesex Community College, Training Hill Road, Middletown, Connecticut 06457.

THE WIRED ISLAND. David Othmer. The first two years of Public access to cable TV in Manhattan. September 1973. Available from the Fund for The City of New York, 1133 Sixth Avenue, New York, NY 10036.

CABLE TELEVISION IN EDUCATION: A Report From the Field. 1973. 50 pp., one copy free, additional copies $1.00. Available from National Cable Television Association, Suite 800, 918 Sixteenth Street, N.W., Washington, D.C.

CABLE TELEVISION: The Giant is Awake. A two-part color filmstrip about the world of cable TV. Including recorded narration and leader's manual. 1974. $24.50. National Education Association, 1201 Sixteenth Street, N.W., Washington, D. C. 20036.

THE HERE, NOW AND TOMORROW OF CABLE TELEVISION IN EDUCATION: A Planning Guide. 1973. A study for the Massachusetts Advisory Council on Education, 182 Tremont Street, Boston, Massachusetts.

ASPEN NOTEBOOK: Cable and Continuing Education. Richard Adler and Walter S. Baer. Aspen workshop on Uses of Cable. 192 pp. $3.95 paperback, 1973. Praeger Publications. Video Box 1323, Springfield, Massachusetts 01101.

CABLE: The Immediate Future. A 10 minute color film (16mm) produced by the Corporation for Public Broadcasting. $50. Available from Cable Television Information Center, 2100 M Street, N.W., Washington, D. C. 20037 (Orders must be prepaid).

ON THE CABLE: The Television of Abundance. Sloan Commission Report. McGraw Hill. 256 pp. $2.95.

RAND REPORTS ON CABLE TELEVISION. (For list write: Communications Department, Rand Corporation, 1700 Main Street, Santa Monica, California 90406.) Some titles:

- --Interactive Television, prospects for two-way service on cable (CI, April p. 2)
- --State regulation of cable television.
- --Cable communications in the Dayton Miami Valley: basic report $5.00, summary $3.00 (CI, February p. 3)

--A guide for education planners. Polly Carpenter.
--Making public access effective. Richard Kletter
--Citizen participation in planning. Robert Yin
--Applications for municipal services. Robert Yin
--Citizen participation after the franchise. Monroe E. Price and Michael Botein.

MITRE CORPORATION REPORTS. (For copies write: The MITRE Corporation Westgate Research Park, McLean, Virginia 22101) Some titles:

--The Reston, Virginia, test of MITRE Corporation's interactive TV system (CI, April p. 2)
--Interactive television software for cable television application.
--Urban Cable Systems (projection for Washington, D.C.) $2.00 (CI, September p. 2, 3)
--Toward a market success for computer-assisted instruction (CAI) (CI, August p. 3)

THE NOTRE DAME LAWYER. 64 pp. excerpt on "Some Aspects of State Regulation of CATV" from April 1972 issue. Exhaustive legal analysis comparing and contrasting state codes, public utility vs. independent public authority. Reprints from Vol. 47, #4 of Notre Dame Lawyer, $2.75, P.O. Box 486, Notre Dame, Indiana 46556.

CABLE TELEVISION IN DETROIT: A study in urban communication. Report of a cable TV study committee prepared for the common council of the city of Detroit, May 1972. 160 pp. $5.00 (15 p. summary, free.) Write: City Clerk Office, 1304 City County Building, Detroit, Michigan 48226 (CI, June p. 3)

CROSSED WIRES: Cable Television in New Jersey. A Report by the Center for Analysis of Public Issues, 92A Nassau Street, Princeton, New Jersey 08540. 94 pp., $3.00. Analysis of franchise negotiations in NJ communities.

A STORY ABOUT PEOPLE. Available Berks Cable Company, Reading, Pennsylvania. Documentary record cooperation NYU's Alternate Media Center, Berks Cable Co., in experimental development community involvement in programming for cable.

INSTANT WORLD. 247 pp. $3.00 from Information Canada, Ottawa, Canada. Report of a Telecommission to Canada's Minister of Communication.

CABLE TV REPORT AND ORDER--RECONSIDERATION: A summary of the official FCC actions concerning cable TV (Feb. 3, 1972 and June 26, 1972) $2.10 or post paid $1.75. Order (#0400-00276) from Government Printing Office, Washington, D.C. 20402.

NOTES FROM THE CENTER. Quarterly news from Cable Television Information Center, 2100 M Street, N.W., Washington, D.C. 20037.

CABLELIBRARIES. A monthly newsletter designed to inform libraries of current developments in cable communications. Order subscriptions ($15 per yr.) from C.S. Tepfer Publishing Co., Inc., 607 Main Street, Ridgefield, Connecticut 06877.

CABLE IN BOSTON. New. $10.00. A look at the basic conditions underlying the economic viability of urban cable. Whitewood Stamps, Inc., 61 Chapel Street, Newton, Massachusetts 02158

NCTA CABLECASTING GUIDEBOOK: A Collection of Ideas and Aids for the Cablecaster, 1973. National Cable Television Association, Suite 800, 918 Sixteenth Street, N.W., Washington, D.C.

ALTERNATE MEDIA CENTER PUBLICATIONS PROGRAM. 1974. Subscription $35.

The Access Workbook. 300 pp. looseleaf.

The Public Access Experience: Profiles of Six Centers. 48 pp. paperbound (single or extra copies available @ $3.00)

Library Access, looseleaf.

Educational Access, looseleaf.

TeleMedicine: Current Experience. 250 pp. paperbound. Report on current experience and thinking in interactive television for provision of health care.

CABLELINES. A monthly publication of Cablecommunications Resource Center, 1900 L Street, N.W., Washington, D.C. 20036.

CABLE: Report to the President. Cabinet committee on cable communications. 1974. $1.50. Order (#4000-00304) from Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.

CABLE TV: GUIDE FOR OHIO LOCAL OFFICIALS. Information about cable geared to Ohio. State Department of Economic and Community Development, Columbus, Ohio.

SCHOOLMAN'S GUIDE TO CABLEVISION UTILIZATION. Excellent glossary. Southwestern Ohio Instructional Television Association, Inc., Spring and Oak Streets, Oxford, Ohio 45056.

ordered that the parking regulations adopted by the Director of Public Safety July 31, 1963, be amended by the enactment of Rule 364 in Chapter V, which shall read as follows:

Chapter V, Parking Time Limited on Certain Streets and/or Alleys.

Parking time is hereby limited on the streets as set forth in Rules 1 through 364 inclusive, for the time and during the hours indicated therein.

Rule 364. Twentieth Street, beginning at a point 118 feet south of Mt. Vernon Avenue to a point 143 feet south of Mt. Vernon Avenue (a distance of 25 feet in front of the U.S. Post Office). 15 minute parking between the hours 8:00 a.m. and 6:00 p.m., west side, week days.

I hereby declare an emergency and that this regulation shall take effect immediately as provided by City Codes, 1959.

By Order Of:
Frederick J. Simon
Director

I certify that this regulation is necessary for the preservation of the public peace, health, safety and welfare:

M. E. Sensenbrenner, Mayor
Date: July 15, 1969

CORRECTION

Ordinance 472-69 published elsewhere in this Bulletin, corrects and replaces an erroneous publication of that Ordinance in Bulletin No. 29, July 19, 1969.

CATV ORDINANCE

TABLE OF CHANGES IN YOUR 1969 COLUMBUS CITY CODE

Code Section	Ordinance	Page	Subject
371.01-371.13 Inc. & 371.99	1499-68	523	Pertaining to Excise and Hotel Taxes.
371.06	633-69	525	Relating to Hotel-Motel Tax Filing Returns.
1713.04	652-69	526	Relating to Hotel-Motel Tax Filing Returns.
2371.07	678-69	561	Rendering Certain Machinery Inoperable.
595.01-595.16 Inc., and 595.99	472-69	561	Relative to Community Antenna Television Systems.
2371.08	705-69	635	Providing Restrictions on Sales and Lighting Requirements of Certain Vendors.
2393.01	735.69	635	Relating to Concealed Weapons.
1105.06	794.69	647	Regarding Water Tap Charge.
595.12	779-69	669	Relative to Community Antenna Television Systems.
931.106	867-69	689	Relative to Camping on City Reservoirs.
595.01-595.16 Inc., and 595.99	472-69	743	Regarding Community Antenna Television Systems.

CHANGES IN 1968 COLUMBUS CITY CODE

(Clip and attach to your 1959 City Code)

ORD. No. 472-69—To supplement the Columbus City Codes, 1959, by the enactment of Article XIII, Chapter 595, re: Community Antenna Television Systems.

Be it ordained by the Council of the City of Columbus:

Section 1. That the Columbus City Codes, 1959, be and they hereby are supplemented by the enactment of Article XIII, Chapter 595, Sections 595.01 through 595.16, inclusive, and Section 595.99, to read as follows:

595.01 Definitions

(A) The term, "community antenna system" (more commonly referred to as a "CATV System", but occasionally referred to as a "Wired City"), means any facility which originates or transmits or distributes electronic signals to subscribers for a fee or fees, including video and/or audio signals from operating television stations and AM and FM radio stations, but not limited to such signals. Specifically included as permissible are services and/or programming originated by the system.

(B) The term, "community antenna system", shall not be applied to the following facilities:

(1) A facility servicing fewer than fifty (50) subscribers.

(2) A facility serving one or more rental complexes, including apartments and/or townhouses and/or single dwellings, under the same ownership, control or management, and including commercial establishments located on the premises of such a rental complex or complexes.

(3) A facility serving individual hotels or motels, or more than one hotel and/or motel under the same ownership, control or management.

(4) A facility owned and operated by a non-profit organization, with service limited to the premises of said non-profit organization.

(C) The term, "operator", shall mean any person, persons, partnership, firm, company, corporation or association operating a community antenna system and holding a permit granted by an ordinance of Council to operate same within the corporate limits of the City.

(D) The terms, "transmission and distribution", "carriage and/or utilization", and "origination", refer to methods, techniques and procedures in the operation of a community antenna system as authorized by the Federal Communications Commission, either by virtue of enabling rules and regulations or in the absence of prohibiting rules and regulations.

595.02 Transmission and Distribution of Signals

The transmission and distribution of electronic signals may be made at the option of the operator as follows; and in addition to being as authorized by the Federal Communications Commission will, if applicable, be in accordance with rules, regulations and tariffs of the Ohio Public Utilities Commission.

(A) Through coaxial cable and/or other electrical conductors installed and maintained by the operator, and attached to poles and/or in underground conduit owned and maintained by the operator.

(1) Even though the operator is authorized to install his own poles and conduit, it is the stated intention of the Council that wherever possible, the operator shall obtain the cooperation of all other holders of public licenses and franchises within the City to allow joint usage of their poles and/or conduit wherever such usage does not interfere with their own normal usage of said poles and/or conduit, so that the number of new or additional poles erected in the City by the operator may be minimized. Such cooperation shall include the rights of joint usage at realistic rates with reasonable terms.

(2) Approval for the locating of new poles and/or new underground conduit will be granted by the Department of Public Safety when such locations have been approved by the Director of Public Service.

(3) The provisions of Paragraphs (A) and (A) (1) notwithstanding, the operator, wherever practical, shall utilize underground conduit in lieu of new poles erected by him, even in those areas where the utility companies, public and private, have erected poles, and are continuing to use them.

(4) The operator shall grant to the City, free of expense, joint use of all his poles and all his underground conduit, assuming adequate windload and weight factors for poles and capacity for conduit, for any proper municipal purposes, insofar as it may be done without interfering with the free use and enjoyment of the operator's own coaxial cable, wire and fixtures.

(a) If the City does make any use of either poles or conduit owned and maintained by the operator, the City shall hold the operator harmless from any and all actions, causes of action, or damages caused by the City's wires or appurtenances upon the poles or in the conduit of the operator.

(b) Any construction and utilization by the City, as regards poles and conduit of the operator, shall conform to the same requirements set forth for the operator in the general areas of safety, quality, maintenance and RF (radio frequency) interference.

(5) The right of construction, including easements, is not implied, except in locations where the City has the authority to grant such rights and easements. All other rights of construction, including easements, shall be the responsibility of the operator.

(6) No construction of either poles or underground conduit shall begin without prior

written approval of the Director of Public Safety.

(B) Through coaxial cable or other electrical conductors installed and maintained by the operator, but attached to poles and/or in underground conduit owned by the Ohio Bell Telephone Company; and/or attached to poles owned by the Columbus & Southern Ohio Electric Company; and/or attached to poles owned by the City of Columbus; and/or attached to poles owned by the Western Union Company.

(C) Through the common carrier facilities, including coaxial cable and/or other electrical conductors and/or radiowave transmission, owned by the Ohio Bell Telephone Company.

(D) Through the common carrier facilities of the Ohio Bell Telephone Company for main and lateral cable service, with the operator installing and maintaining his own service, through coaxial cable and/or other electrical conductors, between terminating units of the Ohio Bell Telephone Company and the dwellings and business establishments of subscribers.

(E) Through the air by means of radiowave transmission facilities of the operator, either totally or in part in combination with (A), (B), (C) and (D) of Section 595.02.

(F) Through the air by means of radiowaves transmitted by some other common carrier source, including satellite, either totally or in part in combination with (A), (B), (C), (D) and (E) of Section 595.02.

(G) Through any combination of the alternatives for transmission and distribution of electronic signals as set forth in (A), (B), (C), (D), (E) and (F) of Section 595.02.

595.03 Conditions of System Construction, Maintenance and Operation

The operator shall comply with the following conditions, and the Office of the Director of Utilities, City of Columbus, shall be charged specifically with the duty of enforcing the provisions of this section.

(A) Construction and maintenance of the transmission and distribution system shall be in accordance with the National Electrical Safety Code (also referred to as the Code of the Board of Underwriters), and such applicable ordinances and regulations of the State of Ohio and the City of Columbus as may be presently in effect or may become effective in the future.

(B) The operator shall, at his cost and expense, install and maintain during the life of the permit granted by ordinance, and/or cause to be installed and maintained by the Ohio Bell Telephone Company, adequate shielding, filtering and grounding as to prevent interference with television and radio reception of non-subscribers to the operator's service or services.

(C) All Federal Communication Commission rules and regulations governing RF (radio frequency) interference presently in effect, and as may become effective in the future, will be observed.

(D) Additional emphasis is supplied to Paragraph (C) of Section 595.03 as follows:

(1) The operator shall not transmit between 152 and 172 megacycles.

(2) Any significant interference with Public Safety Radio Services, as determined by the Department of Public Safety, shall be immediately eliminated by the operator.

(E) All installations of equipment shall be of a permanent nature and durable, installed in accordance with accepted good engineering practices; sufficient to comply with all existing State of Ohio and City of Columbus rules, regulations and ordinances, so as not to interfere in any manner with the right of the public or individual property owned; and shall not interfere with the travel and use of public places; and during construction, repair and removal thereof, shall not obstruct or impede traffic or unnecessarily or unreasonably interfere with the use or enjoyment of public or private property adjacent thereto.

(F) In operating his system, the operator shall meet the following minimum requirements:

(1) The system will produce a picture, whether in black & white or in color, that is undistorted, free from ghost images and accompanied by proper sound on typical, standard production television sets in good repair, and equal in all aspects to what the state of the art permits.

(2) The system will transmit signals of adequate strength to produce good sound and/or good pictures with good sound at all subscriber outlets without causing cross-modulation in the cable or interfering with other electrical or electronic systems.

(3) The operator will be able to demonstrate by instruments or otherwise to subscribers, upon request, that a signal of adequate strength and quality as described in Paragraphs (F) (1) and (2) of Section 595.03, is being delivered by the system.

(4) The operator will render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible.

(5) The operator will strive, insofar as is practical, for the betterment of his system, taking advantage of all reasonable improvements as they become available to him.

(G) The operator shall maintain a local business office, which will be open at least 9:00 a.m., to 5:00 p.m., Monday through Friday; and at least 9:00 a.m., to noon, Saturdays, excluding legal holidays. This office will have a listed telephone, with an adequate number of lines to handle typical traffic, and will be so operated that complaints and requests for repairs and adjustments may be received and processed with a minimum of delay.

(H) The operator shall provide the Council and appropriate City officials with the name of his chief management employee, so that complaints or comments made to Council or any City office, may be referred to the operator for proper action.

(I) In the case of any emergency or disaster, the operator shall, upon request of the Safety Director of the City of Columbus, make available, without charge, any or all of his facilities for use by the City during the emergency or disaster.

(J) The operator shall make his basic service available without charge, upon written request, to all public and parochial schools, including colleges and universities, located within the City.

(1) Installation and service will be subject only to a school being contiguous to a main or lateral cable, or within range of radiowaves if radiowaves are utilized by the operator for the transmission and distribution of signals.

(2) This requirement is for a single connection per school.

(3) There will be no limit as to the number of television receivers a school may operate from this connection, but the expense of installing and maintaining an internal distribution system will be the responsibility of the school.

(4) Any internal distribution system installed by a school must conform to all applicable Federal, State and City rules, regulations and ordinances, and must be operated in such a manner as not to interfere with the operator's system.

(K) The operator shall provide his basic monthly service without charge to each Recreation Center operated by the City.

(1) Installation and service will be subject only to the Recreation Center being contiguous to a main or lateral cable, or within range of radiowaves if radiowaves are utilized by the operator for the transmission and distribution of signals.

(2) This requirement is for up to and including three ([illegible] connections per Recreation Center.

(L) The operator shall provide without charge complete monitoring facilities, including installation, necessary equipment and maintenance of said equipment, to up to and including three (3) City offices, to be designated by Council, located in the downtown area of Columbus.

(1) The monitoring equipment will permit sampling of all services offered by the operator.

(2) Monitoring facilities will be provided whether the City offices are located contiguous to main or lateral cables or not, and even if special construction is required for their activation.

(M) Excluding the programming originated by licensed broadcast stations and/or by closed circuit networks, all programming offered by the operator as part of his basic service to the general public, shall conform to the provisions of the TV Code and/or the Radio Code of the National Association of Broadcasters; provided two (2) or more Columbus commercial television stations (for the TV Code), and five (5) or more Columbus commercial radio stations (for the Radio Code), AM and/or FM, are code subscribers in compliance thereof.

(1) If the operator sells advertising, per Paragraph 595.06 (B), all such advertising material, if transmitted visually and/or aurally in connection with locally originated programming which is offered to the general public as part of the operator's basic service, shall also be subject to the applicable provisions of the NAB Codes, mentioned above, and qualified therein as to the practice of Columbus commercial broadcast stations.

595.04 Prohibitions

(A) The operator may neither directly or indirectly engage in the sale, servicing or repair of television receivers, nor may he engage directly or indirectly in the rental or leasing of television receivers; nor may he or any of his employees require of any subscriber the purchase or servicing of a television receiver from or by any designated company.

(B) The operator may neither directly or indirectly engage in the installation or repair of distribution systems, other than his own, within apartment houses, hotels, motels, or other commercial establishments, or in schools and other non-profit organizations.

(C) The operator is prohibited from allowing his facilities to be utilized for political or other partisan purposes unless, as a matter of publicly stated policy, he has adopted guidelines calling for strict adherence to existing rules and regulations of the Federal Communications Commission governing political broadcasts and telecasts, and including the "Fairness Doctrine". Excluded from this provision is programming originated by a licensed radio or television station, said station being subject to the aforementioned rules and regulations of the FCC.

595.05 Indemnification, Insurance and Bonds

(A) The operator shall indemnify and save harmless the City of Columbus and all agents, officers, employees and representatives thereof from all claims, demands, causes of action, copyright action, liability, judgments, costs and expenses or losses for injury or death to persons or damage to property owned by, and Workmen's Compensation claims against: Any parties indemnified herein, arising out of, caused by, or as a result of the operator's construction, erection, maintenance, use or presence of, or removal of any poles, wires, lines, cable, conduit, appurtenances thereto, or equipment or attachments thereto.

(1) The operator shall carry good and sufficient public liability and property damage insurance to fulfill the terms of Paragraph (A) of Section 595.05, which insurance shall be in the amounts of not less than $100,000 for property damage in any one accident, nor less than $400,000 aggregate in any single policy year; and not less than $250,000 bodily injury or death of any one person, with a minimum of $500.000 as to any one accident. (H)

(2) The policy shall provide by endorsement that it may only be cancelled or amended by the insurance company after ten (10) days notice, in writing, to the Director of Public

Utilities.

(3) Said policy (or policies) must be approved by the City Attorney.

(4) Said policy (or policies) must be in force before the operator commences any construction or installations.

(5) Either the original policy (or policies) or certified copies must be on file with the Director of Public Utilities.

(6) The City of Columbus shall be named an additional assured in any such policy, or policies.

(B) Upon termination or revocation of his permit or upon cessation of operations by the operator, said operator is under obligation to remove all of his equipment and installations over and under city streets, at the request of Council; over and under private property at the request of the property owners; and from the homes or business establishments of subscribers, at their request.

⑤ (1) The operator shall post bond in the sum of $100,000 guaranteeing the removal of all his equipment and installations, if his operation ceases, whatever the cause or reason; and if requested to do so by the Council, individual private property owners or subscribers.

(2) Such bonding as called for in Paragraph (B) (1) of Section 595.05, shall be subject to these requirements:

(a) Such bond shall be executed by the operator and one or more sureties approved by the City Attorney.

(b) Either the bond (or bonds) or certified copies must be on file with the Director of Public Utilities.

(c) The bond (or bonds) must provide by endorsement that it cannot be cancelled or amended by the bonding company prior to ten (10) days notice to the Director of Public Utilities.

(d) Said bond (or bonds) must be effective before the operator commences any construction or installations.

⑥ (C) Within thirty (30) days from the effective date of the granting of a permit by ordinance, the operator shall furnish a bond to the City in the amount of $25,000 guaranteeing the faithful performance of the obligations of the operator under the terms of this ordinance, said bond being in addition to that required under Paragraph (B) (1), and subject to these requirements:

(1) Such bond shall be executed by the operator and one or more sureties approved by the City Attorney.

(2) Either the bond (or bonds) or certified copies must be on file with the Director of Public Utilities.

(3) The bond (or bonds) must provide by endorsement that it cannot be cancelled or amended by the bonding company prior to ten (10) days notice to the Director of Public Utilities.

(D) It is not the intention of the Council to require either unnecessary or excessive bonding, or double bonding, nor unnecessary or excessive insurance, or double insurance, therefore the Council will waive the requirements for bonds and insurance, excluding the Performance Bond called for by Paragraph (C) of Section 595.05, or reduce the amounts thereof, depending upon the participation of the Ohio Bell Telephone in providing facilities to and for the operator. An additional consideration for reduction or waiver will be the extent of radiowave transmission versus the use of cable and/or other electrical conductors.

595.06 Scope of Operations

In addition to conventional services currently being offered by operating community antenna systems, including the signals of TV, AM, and FM stations and also programming originated by the operators, this ordinance, anticipating the future of a "Wired City", specifically covers the following:

(A) Pay television (programing for which a special or extra fee is charged), if authorized by the Federal Communications Commission, and if such service is offered by the operator.

(B) The sale of advertising in connection with locally originated programming, if such sales are authorized by the Federal Communications Commission, and if such sales are made by the operator.

(C) Any other service or services involving the use of electronic signals if authorized by the Federal Communications Commission and if such additional services are offered by the operator.

595.07 Rates for Service to Subscribers

Unless superseded by Federal or State regulations, the City of Columbus retains jurisdiction to establish rates for subscriber service. All such rates shall be fair, just and reasonable. The operator shall be subject to all authority now or hereinafter possessed by the City of Columbus or any other regulatory body having jurisdiction to fix rates for services offered by the operator.

(A) Before any service is offered to any ⑦ subscriber the operator shall file with the Director of Public Utilities, for approval of the Council, a schedule of proposed rates.

(1) A filing for the first service to be offered by the operator shall be no less than ninety (90) days in advance of the approximate date the system is to become operational.

(2) A filing for new or additional service, after the system is once operational, shall be made no less than sixty (60) days in advance of the effective date specified by the operator for the new or additional service.

(3) A filing for changes in previously approved schedules shall be made no less than sixty (60) days in advance of the effective date requested by the operator.

(B) No action shall be taken by the Council with respect to rate reduction and/or modifications in rate structures unless the operator has been given a written notice at least ninety (90) days in advance of the effective date contemplated by Council; and not until the operator has been given every opportunity to be heard by Council will final action be taken.

(C) The operator shall be limited in his charges to individual dwelling units as follows:

(1) A maximum installation charge of $15.00 for the first television set; and a maximum of $7.50 for each additional television set on the same premises.

(2) A maximum monthly charge for basic service of $5.00 for the first television set; and a maximum of $1.50 for each additional television set on the same premises.

(3) The maximum disconnection-reconnection charge related to the temporary suspension of service requested by a subscriber shall be no more than the monthly service charge.

(4) The maximum reconnection charge, if service has been terminated by the operator for non-payment of fees, shall be no more than $10.00.

(5) The installation charge shall be personal to the individual subscriber; and upon removal to another location within the City of Columbus, the maximum reconnection charge shall be no more than the monthly charge for service.

(6) If a use tax is ever imposed on CATV charges, said tax may, at the option of the operator, be added to the maximums listed above.

(D) The maximums listed above apply to basic service to individual dwelling units, and consisting of up to and including twelve (12) television channels.

(1) It is not the intent of this ordinance to retard the growth of CATV service beyond the conventional 12 channels offered by most systems (a limitation imposed by the VHE tuner generally utilized by the industry). If and when expanded service (that is, service beyond twelve (12) television channels) is offered by the operator, the operator shall have the right to apply to Council for a second rate structure; and an increase in the maximums covered herein will be favorably considered by Council, assuming an additional investment in equipment and an increase in operating costs.

(E) Although no effort is made by this ordinance to establish maximum rates for commercial establishments nor for buildings requiring special arrangements for service, including apartment buildings, hotels and motels already possessing their own master distribution systems, the operator shall, before offering any such service, submit his proposed rate structure to Council for approval.

(F) Additionally, if and when the services outlines in Paragraphs (A), (B), and (C) of Section 595.06 as possibilities for the future, are to be offered to subscribers, the operator shall, before offering said service or services, submit detailed proposals of all applicable rate structures to Council for approval.

(G) A current, up-to-date copy of all the operator's rules, regulations and policies having to do with subscriber service will be kept on file with the Director of Public Utilities. No rule, regulation or policy shall be contrary to provisions of this ordinance.

595.08 Special Requirements

(A) The operator, in compliance with current rules and regulations of the Federal Communications Commission, shall afford full time, non-duplicated carriage to WBNS-TV, WLW-C, WOSU-TV and WTVN-TV and to any other television station licensed to the City of Columbus by the FCC and which goes on the air.

B. It is the intent of this section to require the carriage outlines in Paragraph (A) above, which shall be without the degrading of signals and without deletion of advertising or any material contained in such telecasts, even though the Federal Communications Commission at some future date might amend or even eliminate rules and regulations applicable to carriage and protection of local stations. Therefore, this particular provision shall remain in force so long as there are no laws, rules or regulations prohibiting such carriage, and so long as the operator is not forbidden to do so by the stations involved.

595.09 Special Provisions

Taking into account certain additional services, services which to be successful, necessarily would have to cross corporate lines of many Greater Columbus municipalities, and considering these services to be in the public interest, and not wanting to curtail their development, the following services are specifically exempted from licensing requirements and excluded from fee payments to the City, so long as said services are offered by an operator holding a permit under ordinance.

(A) Services created primarily for area hotels and motels, and utilized as a promotional-informational vehicle for Greater Columbus, reaching only guests in participating hotels and motels.

(B) Services created for special and/or occasional closed circuit presentations, not for the viewing and/or listening of the general public.

(1) This particular exclusion/exemption is not applicable to any regular, continuing service or services which the operator may offer pursuant to Paragraph 595.07 (C).

(C) Services created for non-profit organizations.

(D) The exemptions and exclusions detailed herein shall apply to both originations by the operator and to signals merely re-transmitted and/or distributed by the operator.

595.10 Permits to Operate Community Antenna Systems in the City

① (A) No operator shall offer service to subscribers by means of a community antenna system within the City unless he holds a permit granted by ordinance of Council, and authorizing such a system within the City, and in, under and over the streets, highways and other public grounds of the City.

(B) All permits granted by ordinance pursuant to this section shall be non-exclusive and non-assignable; and Council reserves the right to issue as many such permits as it deems advisable in the public interest.

(C) Any permit granted under the terms of this ordinance shall be declared null and void one year from the date it is granted, and such permit shall be revoked unless the operator (or operators) who received said permit satisfactorily demonstrate to the Director of Public Utilities compliance with the time-table set forth in Paragraph (D) below.

(D) The operator, not later than six (6) months from the effective date of the ordinance granting him a permit, shall furnish to the Council, for approval, complete plans and specifications for the construction and operation of his system, including transmission and distribution, which insofar as is technically and economically practical shall call for service to all the incorporated area of the City, as of that date. Within thirty (30) days after receiving approval from Council, the operator must begin all the procedures to obtain whatever agreements, if any, are required from utility companies; and approvals from the various City departments required herein. After obtaining all these necessary agreements and approvals the operator shall begin construction of the system within one hundred eighty (180) days thereafter. A minimum of twenty-five (25) cable miles must be constructed during each successive year of the permit until the system services all residential areas contemplated by the approved plans and specifications.

(E) The permit shall take effect and will be in force from and after the earliest period allowed by law, and upon the filing by the operator with the Director of Public Utilities of his acceptance, in writing, of each and all of the terms and provisions of this ordinance; provided, however, if the operator shall fail to file such written acceptance within thirty (30) days after the passage of the ordinance by Council, then the ordinance granting his permit shall be null and void.

(F) If any section, sub-section, sentence, clause, phrase or portion of Chapter 595 is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, or in conflict with rules and regulations of the Federal Communications Commission, then such portion shall be deemed a separate, distinct and independent provision of this ordinance, and such holding shall not affect the validity of the remaining portions hereof.

(G) Any permit granted pursuant to this ordinance may be revoked by a simple majority vote of the Council, upon the recommendation of the Director of Public Utilities, for violation of provisions of said ordinance, by giving the operator ninety (90) days notice, in writing, of intention to revoke such permit unless such violation is corrected during the period of notice.

(H) (1) The term of each permit shall be for a period of no more than ten (10) years, the effective date to be pursuant to Paragraph (E), above; with the right of renewal at the option of Council for succeeding periods, each to correspond to the original period of permit years.

(2) The operator shall be advised, in writing, no less than ninety (90) days prior to the end of the period covered by his permit, whether his permit is to be renewed for another like period. And while it is not the intention of this ordinance to provide for automatic renewals, no existing operation will be terminated without due and just cause.

595.11 Condition of Service

(A) No less than ninety (90) days after the initial offering of service to subscribers, the operator shall make available his basic monthly service to all applicants whose residences or commercial establishments are contiguous to a main or lateral cable, or within range of radiowaves if radiowaves are utilized for the transmission and distribution of signals.

(B) In anticipation of ultimately making all services available to every dwelling unit and commercial establishment within the corporate limits, regardless of location, in accordance with Paragraph (D), above, the operator is to strive to achieve this goal as rapidly as possible, and is to keep the Council advised of all extensions of service beyond that contemplated in his original plans and specifications as approved.

(C) All expanded service, once offered by the operator, shall be made available to all applicants whose residences or commercial establishments are contiguous to a main or lateral cable, or within range of radiowaves if radiowaves are utilized for transmission and distribution.

(D) Service to multiple-unit buildings (including apartment houses and office buildings) will be subject to the permission of the owner or operator of each building.

(E) Service to newly-annexed areas of the City will be provided as quickly as is economically feasible and technically possible.

(F) The operator shall not, as to rates, charges, service, service facilities, repairs, maintenance, rules, regulations, or in any other respect, make or grant undue preference or advantage to any person or business, nor subject any person or business to any prejudice or disfavor.

595.12 Permit Fees, and Payment Thereof.

ORD. No. 779-69—To amend Section 595.12 of Columbus City Codes, 1959, relative to Community Antenna Television Systems and to repeal existing Section 595.12 of Columbus City Codes, 1959.

Be it ordained by the Council of the City of Columbus:

Section 1. That Section 595.12 of Columbus City Codes, 1959, be and it is hereby amended to read as follows:

595.12 Permit fees, and payment thereof.

(A) The operator, for the privilege of holding a permit to operate a community antenna system in the City of Columbus, which entitles him to offer his service or services, and to install his distribution and transmission facilities in, under and over the streets, highways and other public grounds of the City, subject to the overall provisions of this ordinance, which have been conceived for the protection of the City and its citizens, shall make payments to the City as follows:

(1) The operator, each year, shall pay six (6) percent of all gross receipts to the City.

(2) The operator will be permitted no deduction from gross receipts with the exception of any direct use taxes which may be imposed in the future on a portion or all of his receipts. Such direct use taxes, whether the result of legislation passed by appropriate authorities creating new taxes or as the result of legislation expanding existing taxes, may be deducted by the operator from his gross receipts.

(3) The operator shall pay a minimum fee of $5,000.00 annually for the period of his permit.

(a) The first payment of $5,000.00 shall accompany the operator's acceptance of his permit, as required by Paragraph (E) of this Section 595.10.

(b) The operator shall have the option of operating under a calendar year or fiscal year plan; and the minimum fee may be prorated during his first year to correspond to his books, with a like, balancing adjustment during the final year of the period covered by his initial permit. Once the operating year has been established, payment of the $5,000.00 minimum fee will be made within thirty (30) days following the start of each new year.

(c) The minimum fee is to be chargeable against the six (6) percent of gross receipts paid annually to the City; however, the minimum is not accumulative.

(B) All payments to the City under this ordinance shall be made semi-annually with the year as determined by the operator pursuant to Paragraph (3) (b) above.

(1) The mid-year payment may be on the basis of unaudited total gross receipts, and shall be due and payable within thirty (30) days of the end of the sixth month.

(2) The year-end payment shall be due and payable within ninety (90) days after the close of the operator's operating year.

(a) The operator, at the time of this payment, shall submit complete accounting information to substantiate the amount of payments made; certified verification will be provided to the City Auditor, attested to by an independent audit of the operator's books.

(C) All payments to the City shall be by certified check, made payable to the City Treasurer, and either hand-delivered or sent by registered mail to the Director of Public Utilities.

(D) Council and the Director of Public Utilities reserve the right to reasonable inspection of the books, records, maps, plans and other like material of the operator at the office of the operator during normal business hours.

Sec. 2. That existing Section 595.12 of the Columbus City Codes, 1959, be and it is hereby repealed.

Sec. 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed June 23, 1969.

WILLIAM P. HOERMLE,
President of Council.

Approved June 23, 1969.
M. E. SENSENBRENNER, Mayor.
Attest: HELEN M. VAN HEYDE, City Clerk.

~~ator for service to its subscribers, shall be deemed to be unreasonable and unjust.~~

~~(2.) The Office of the Director of Utilities, for the purpose of ascertaining the reasonableness and justness of rates for the services rendered to the subscribers of a community antenna system, may investigate and ascertain the value of the property used by the operator for services to its subscribers. The Office of the Director of Utilities may make all rules and regulations which seem necessary to ascertain the value of the property of a community antenna system.~~

~~(3.) A subscriber or an operator may challenge the reasonableness and justness of a rate by filing a complaint with the Office of the Director of Utilities, whereupon the Office of the Director of Utilities shall proceed to investigate the complaint and hold a hearing. Such hearing shall be preceded by a ten day notice of said hearing to the operator of the community antenna system. If upon investigation and hearing the Director of Utilities finds an existing rate is unreasonable or unjust it shall determine and by order fix a reasonable and just rate.~~

595.13 Basis of Service

The service to be offered by the operator shall be on a solely voluntary basis on the part of the subscriber, who, if his residence or commercial establishment is contiguous to main or lateral cables or within range of radiowaves if radiowaves are utilized for transmission and distribution, may subscribe to the aforementioned service at will. Under no circumstances will the operator require a subscriber to pay for service longer than the service is desired.

595.14 Delays

Provisions of this section notwithstanding, delays in the performance of the operator's obligations under the ordinance which are caused by, equipment shortages, a state of war or national emergency, acts of God, or any circumstances beyond the control of the operator, shall not be construed to be in violation of the requirements set forth herein, and reasonable extensions of time shall be granted therefor.

595.15 Scope of Ordinance

(A) This is an enabling ordinance authorizing the operation of a CATV system(s) in the City of Columbus, but it does not take the place of any franchise, license or permit which may be additionally required by law of the operator, either currently or at some later date.

(B) It shall be the responsibility of the operator to obtain any and all such franchises, licenses or permits necessary to the operation and conduct of his business activities.

(C) Failure of the operator to obtain and conform to the provisions of any and all such franchises, licenses or permits, and to make prescribed payments if required as a condition of their issuance, shall be considered in violation of this ordinance, and subject to the penalties set forth in Paragraphs 595.10 (G) and 595.99.

595.16 Statement of Intent

(A) Considering the concept of the "wired city" to be valid, and believing that it will not only become a reality in the foreseeable future but will require a combination of cable and off-the-air transmission for the ultimate in services, the philosophy of Council is rather elementary:

(1) In setting forth the guidelines for the operation of CATV (this, for all practical purposes, being the beginning of a "wired city"), insofar as Council may do so without being in conflict with rules and regulations of the Federal Communications Commission, it is the intent to make possible the offering of a variety of services, while at the same time affording the City and its citizens maximum protection.

(2) In these guidelines is recognition of the right of the operator (or operators) to have a profitable enterprise, and to return invested capital to stockholders with a gain.

(3) In summation, the philosophy might be stated as one based on mutual good faith, as involving the City, its citizens and the operator.

(B) Underscoring certain pertinent facts having to do with communication ventures, primarily radio and television type services, which are considered relevant to the enabling legislation for CATV, and which are detailed below in sub-paragraphs (1), (2), (3), and (4), it is the stated intention of Council not to impose unreasonable ceilings on rates to subscribers (which in the final analysis, under the free enterprise system, will be dictated by the subscriber, and not by the operator or some regulatory body); nor to specify unrealistic fees to be paid by the operator to the City.

(1) The speculative nature of a CATV system required to compete in and to meet the demands of a "wired city" without the benefits (or protection) of an exclusive operator's permit, is noted, together with a need for substantial risk capital on a long term basis.

(2) Restricted broadcast competition for radio and television station, a monopolistic condition created by FCC allocation tables or spectrum limitations, is noted.

(3) That broadcast stations pay no fees to anyone for using the public's air space for the transmission of their signals, is noted.

(4) And that broadcast stations are subject to no rules or regulations of the Federal government, where the right of regulation is solely vested, establishing maximum charges for advertising nor imposing a pre-determined rate of return on investment, are also noted.

(C) Conversely, but as another facet of the mutual good faith philosophy introduced in part in Paragraphs (A) and (B) above, it is the stated intention of this ordinance to require maximum value service for subscribers in the City; therefore, Council retains the option, to be exercised upon recommendation of the Director of Public Utilities, for a thorough annual review to ascertain (1) the fairness of the operator's rates; and/or (2) whether the fees paid to the City in previous years by the operator were adequate and/or justifiable, each as measured against the service or services being rendered subscribers.

(1) It is not to be implied that Council contemplates ever changing rates and/or fees, either upward or downward, authority to do so being made a part of this ordinance only as a protection for the City, its citizens and the operator; and any such changes, if ever proposed, will be for just cause.

(D) In order for the operator to meet the prerequisites of "maximum value service" to subscribers, his system necessarily must be viable, and a worthwhile investment for ownership; otherwise, operating funds for optimum service and sufficient additional capital for expansion and extension of service in the future, as both anticipated and desired by Council, will not be available.

(1) It is to be emphasized that Council, with such an understanding as expressed in Paragraph (D), above, will never act capriciously or arbitrarily with its right of review as set forth in Paragraph (C) above; and no review will be undertaken, no action detrimental to the operator proposed as a result of such a review, which have been motivated by the operator's profit and loss record alone, the overwhelming issue in any and all reviews being the propriety of charges for service versus the service itself, this being of far greater import to Council than payments to the City.

(E) Additionally (as initially set forth in sub-section 595.07 (B) re rates), no action with respect to rates and/or fees paid to the City will be taken without the operator being given every opportunity to be heard by Council.

595.99 Penalty

In addition to the provisions of Paragraph (G) of Section 595.10, having to do with revocation of permits, this penalty shall apply:

"Whoever violates any provision of Chapter 595 of the Columbus City Codes, 1959, shall be deemed guilty of a misdemeanor and fined not exceeding Five Hundred Dollars ($500)

"Any such violation shall constitute a separate offense of each successive day continued."

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed as amended April 28, 1969.

WILLIAM P. HOE[illegible]MLE,
President of Council.

Approved as amended June 19, 1969.

M. E. SENSENBRENNER, Mayor.
Attest: HELEN M. VAN HEYDE,
City Clerk.

CITY OF COLUMBUS
OFFICE OF THE CITY CLERK

ORD. No. 779-69—To amend Section 595.12 of Columbus City Codes, 1959, relative to Community Antenna Television Systems and to repeal existing Section 595.12 of Columbus City Codes, 1959.

Be it ordained by the Council of the City of Columbus:

Section 1. That Section 595.12 of Columbus City Codes, 1959, be and it is hereby amended to read as follows:

595.12 Permit fees, and payment thereof.

(A) The operator, for the privilege of holding a permit to operate a community antenna system in the City of Columbus, which entitles him to offer his service or services, and to install his distribution and transmission facilities in, under and over the streets, highways and other public grounds of the City, subject to the overall provisions of this ordinance, which have been conceived for the protection of the City and its citizens, shall make payments to the City as follows:

(1) The operator, each year, shall pay six (6) percent of all gross receipts to the City.

(2) The operator will be permitted no deduction from gross receipts with the exception of any direct use taxes which may be imposed in the future on a portion or all of his receipts. Such direct use taxes, whether the result of legislation passed by appropriate authorities creating new taxes or as the result of legislation expanding existing taxes, may be deducted by the operator from his gross receipts.

② (3) The operator shall pay a minimum fee of $5,000.00 annually for the period of his permit.

(a) The first payment of $5,000.00 shall accompany the operator's acceptance of his permit, as required by Paragraph (E) of this Section 595.10.

(b) The operator shall have the option of operating under a calendar year or fiscal year plan; and the minimum fee may be prorated during his first year to correspond to his books, with a like, balancing adjustment during the final year of the period covered by his initial permit. Once the operating year has been established, payment of the $5,000.00 minimum fee will be made within thirty (30) days following the start of each new year.

(c) The minimum fee is to be chargeable against the six (6) percent of gross receipts paid annually to the City; however, the minimum is not accumulative.

(B) All payments to the City under this ordinance shall be made semi-annually with the year as determined by the operator pursuant to Paragraph (3) (b) above.

(1) The mid-year payment may be on the basis of unaudited total gross receipts, and shall be due and payable within thirty (30) days of the end of the sixth month.

(2) The year-end payment shall be due and payable within ninety (90) days after the close of the operator's operating year.

(a) The operator, at the time of this payment, shall submit complete accounting information to substantiate the amount of payments made; certified verification will be provided to the City Auditor, attested to by an independent audit of the operator's books.

(C) All payments to the City shall be by certified check, made payable to the City Treasurer, and either hand-delivered or sent by registered mail to the Director of Public Utilities.

(D) Council and the Director of Public Utilities reserve the right to reasonable inspection of the books, records, maps, plans and other like material of the operator at the office of the operator during normal business hours.

Sec. 2. That existing Section 595.12 of the Columbus City Codes, 1959, be and it is hereby repealed.

Sec. 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed June 23, 1969.

WILLIAM P. HOERMLE,
President of Council.

Approved June 23. 1969.
M. E. SENSENBRENNER, Mayor.
Attest: HELEN M. VAN HEYDE, City Clerk.

APPENDIX C

RULES AND REGULATIONS

Part 76

Cable Television Service

SEPTEMBER 1972

FEDERAL COMMUNICATIONS COMMISSION

Contents—Part 76

Subpart A—General

Sec.
76.1 Purpose.
76.3 Other pertinent rules.
76.5 Definitions.
76.7 Special relief.

Subpart B—Applications and Certificates of Compliance

76.11 Certificate of compliance required.
76.13 Filing of applications.
76.16 Who may sign applications.
76.18 Amendment of applications.
76.20 Dismissal of applications.
76.25 Public notice.
76.27 Objections to applications; related matters.

Subpart C—Federal-State/Local Regulatory Relationships

76.31 Franchise standards.

Subpart D—Carriage of Television Broadcast Signals

76.51 Major television markets.
76.53 Reference points.
76.54 Significantly viewed signals; method to be followed for special showings.
76.55 Manner of carriage.
76.57 Provisions for systems operating in communities located outside of all major and smaller television markets.
76.59 Provisions for smaller television markets.
76.61 Provisions for first 50 major television markets.
76.63 Provisions for second 50 major television markets.
76.65 Grandfathering provisions.

Subpart E—[Reserved]

Subpart F—Program Exclusivity

76.91 Stations entitled to network program exclusivity.
Sec.
76.93 Extent of protection.
76.95 Exceptions.
76.97 Waiver petitions.
76.99 Grandfathering.
76.151 Syndicated program exclusivity; extent of protection.
76.153 Persons entitled to exclusivity.
76.155 Notification.
76.157 Exclusivity contracts.
76.159 Grandfathering.

Subpart G—Cablecasting

76.201 Origination cablecasting in conjunction with carriage of broadcast signals.
76.205 Origination cablecasts by candidates for public office.
76.209 Fairness doctrine; personal attacks; political editorials.
76.213 Lotteries.
76.215 Obscenity.
76.217 Advertising.
76.221 Sponsorship identification.
76.225 Per-program or per-channel charges for reception of cablecasts.
76.251 Minimum channel capacity; access channels.

Subpart H—General Operating Requirements

76.301 Copies of rules.
76.305 Logging and recordkeeping requirements.
76.311 Equal employment opportunities.

Subpart I—Forms and Reports

76.401 Annual report of cable television systems.
76.405 Cable television annual financial report.
76.406 Computation of cable television annual fee.
76.409 Annual employment report.
76.411 Annual report of complaints.

Subpart A—General

§ 76.1 Purpose.

The rules and regulations set forth in this part provide for the certification of cable television systems and for their operation in conformity with standards for carriage of television broadcast signals, program exclusivity, cablecasting, access channels, and related matters.

§ 76.3 Other pertinent rules.

Other pertinent provisions of the Commission's rules and regulations relating to the Cable Television Service are included in the following parts of this chapter:

Part 0—Commission Organization.
Part 1—Practice and Procedure.
Part 21—Domestic Public Radio Services (Other Than Maritime Mobile).
Part 63—Extension of Lines and Discontinuance of Service by Carriers.
Part 64—Miscellaneous Rules Relating to Common Carriers.
Part 78—Cable Television Relay Service.
Part 91—Industrial Radio Services.

§ 76.5 Definitions.

(a) *Cable television system* (*or CATV system*). Any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service, but such term shall not include (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves only the residents of one or more apartment dwellings under common ownership, control, or management, and commercial establishments located on the premises of such an apartment house.

NOTE: In general, each separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and single, discrete unincorporated areas) served by cable television facilities constitutes a separate cable television system, even if there is a single headend and identical ownership of facilities extending into several communities. See e.g., Telerama, Inc., 3 FCC 2d 585 (1966); Mission Cable TV, Inc., 4 FCC 2d 236 (1966).

(b) *Television station; television broadcast station*. Any television broadcast station operating on a channel regularly assigned to its community by § 73.606 of this chapter, and any television broadcast station licensed by a foreign government: *Provided, however*, That a television broadcast station licensed by a foreign government shall not be entitled to assert a claim to carriage or program exclusivity, pursuant to Subpart D or F of this part, but may otherwise be carried if consistent with the rules.

(c) *Television translator station*. A television broadcast translator station as defined in § 74.701 of this chapter.

(d) *Principal community contour*. The signal contour that a television station is required to place over its entire principal community by § 73.685(a) of this chapter.

(e) *Grade A and Grade B contours*. The field intensity contours defined in § 73.683(a) of this chapter.

(f) *Specified zone of a television broadcast station*. The area extending 35 air miles from the reference point in the community to which that station is licensed or authorized by the Commission. A list of reference points is contained in § 76.53. A television broadcast station that is authorized but not operating has a specified zone that terminates eighteen (18) months after the initial grant of its construction permit.

(g) *Major television market*. The specified zone of a commercial television station licensed to a community listed in § 76.51, or a combination of such specified zones where more than one community is listed.

(h) *Designated community in a major television market*. A community listed in § 76.51.

(i) *Smaller television market*. The specified zone of a commercial television station licensed to a community that is not listed in § 76.51.

(j) *Substantially duplicated*. Regularly duplicated by the network programing of one or more stations in a week during the hours of 6 to 11 p.m., local time, for a total of 14 or more hours.

(k) *Significantly viewed.* Viewed in other than cable television households as follows: (1) For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and (2) for an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent. See § 76.54.

NOTE: As used in this paragraph, "share of viewing hours" means the total hours that noncable television households viewed the subject station during the week, expressed as a percentage of the total hours these households viewed all stations during the period, and "net weekly circulation" means the number of noncable television households that viewed the station for 5 minutes or more during the entire week, expressed as a percentage of the total noncable television households in the survey area.

(l) *Full network station.* A commercial television broadcast station that generally carries in weekly prime time hours 85 percent of the hours of programing offered by one of the three major national television networks with which it has a primary affiliation (i.e., right of first refusal or first call).

(m) *Partial network station.* A commercial television broadcast station that generally carries in prime time more than 10 hours of programming per week offered by the three major national television networks, but less than the amount specified in paragraph (l) of this section.

(n) *Independent station.* A commercial television broadcast station that generally carries in prime time not more than 10 hours of programming per week offered by the three major national television networks.

(o) *Network programming.* The programing supplied by a national or regional television network, commercial or noncommercial.

(p) *Syndicated program.* Any program sold, licensed, distributed, or offered to television station licensees in more than one market within the United States for noninterconnected (i.e., nonnetwork) television broadcast exhibition, but not including live presentations.

(q) *Series.* A group of two or more works which are centered around, and dominated by the same individual, or which have the same, or substantially the same, cast of principal characters or a continuous theme or plot.

(r) *Off-network series.* A series whose episodes have had a national network television exhibition in the United States or a regional network exhibition in the relevant market.

(s) *First-run series.* A series whose episodes have had no national network television exhibition in the United States and no regional network exhibition in the relevant market.

(t) *First-run nonseries programs.* Programs, other than series, that have had no national network television exhibition in the United States and no regional network exhibition in the relevant market.

(u) *Prime time.* The 5-hour period from 6 to 11 p.m., local time, except that in the central time zone the relevant period shall be between the hours of 5 and 10 p.m., and in the mountain time zone each station shall elect whether the period shall be 6 to 11 p.m. or 5 to 10 p.m.

NOTE: Unless the Commission is notified to the contrary, a station in the mountain time zone shall be presumed to have elected the 6 to 11 p.m. period.

(v) *Cablecasting.* Programing (exclusive of broadcast signals) carried on a cable television system. See paragraphs (aa), (bb), and (cc) (Classes II, III, and IV cable television channels) of this section.

(w) *Origination cablecasting.* Programing (exclusive of broadcast signals) carried on a cable television system over one or more channels and subject to the exclusive control of the cable operator.

(x) *Access cablecasting.* Services provided by a cable television system on its public, educational, local government, or leased channels.

(y) *Legally qualified candidate.* Any

person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State, or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot, or

(2) Is eligible under the applicable law to be voted for by sticker, by writing his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office.

(z) *Class I cable television channel.* A signaling path provided by a cable television system to relay to subscriber terminals television broadcast programs that are received off-the-air or are obtained by microwave or by direct connection to a television broadcast station.

(aa) *Class II cable television channel.* A signaling path provided by a cable television system to deliver to subscriber terminals television signals that are intended for reception by a television broadcast receiver without the use of an auxiliary decoding device and which signals are not involved in a broadcast transmission path.

(bb) *Class III cable television channel.* A signaling path provided by a cable television system to deliver to subscriber terminals signals that are intended for reception by equipment other than a television broadcast receiver or by a television broadcast receiver only when used with auxiliary decoding equipment.

(cc) *Class IV cable television channel.* A signaling path provided by a cable television system to transmit signals of any type from a subscribed terminal to another point in the cable television system.

(dd) *Channel frequency response.* The relationship within a cable television channel between amplitude and frequency of a constant amplitude input signal as measured at a subscriber terminal.

(ee) *Subscriber terminal.* The cable television system terminal to which a subscriber's equipment is connected. Separate terminals may be provided for delivery of signals of various classes.

(ff) *System noise.* That combination of undesired and fluctuating disturbances within a cable television channel that degrades the transmission of the desired signal and that is due to modulation processes or thermal or other noise-producing effects, but does not include hum and other undesired signals of discrete frequency. System noise is specified in terms of its rms voltage or its mean power level as measured in the 4 MHz bandwidth between 1.25 and 5.25 MHz above the lower channel boundary of a cable television channel.

(gg) *Terminal isolation.* The attenuation, at any subscriber terminal, between that terminal and any other subscriber terminal in the cable television system.

(hh) *Visual signal level.* The rms voltage produced by the visual signal during the transmission of synchronizing pulses.

§ 76.7 Special relief.

(a) On petition by a cable television system, a franchising authority, an applicant, permittee, or licensee of a television broadcast, translator, or microwave relay station, or by any other interested person, the Commission may waive any provision of the rules relating to cable television systems, impose additional or different requirements, or issue a ruling on a complaint or disputed question.

(b) The petition may be submitted informally, by letter, but shall be accompanied by an affidavit of service on any cable television system, franchising authority, station licensee, permittee, or applicant, or other interested person who may be directly affected if the relief requested in the petition should be granted.

(c) (1) The petition shall state the relief requested and may contain alternative requests. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(2) A petition for a ruling on a complaint or disputed question shall set forth all steps taken by the parties to resolve the problem, except where the only relief sought is a clarification or interpretation of the rules.

(3) If a petition involves more than one cable television community, three (3) copies of it should be filed for each such community, in addition to the number of copies otherwise required to be filed pursuant to § 1.51 of this chapter.

(d) Interested persons may submit comments or opposition to the petition within thirty (30) days after it has been filed. For good cause shown in the petition, the Commission may, by letter or telegram to known interested persons, specify a shorter time for such submissions. Comments or oppositions shall be served on petitioner and on all persons listed in petitioner's affidavit of service, and shall contain a detailed full showing, supported by affidavit, of any facts or considerations relied on.

(e) The petitioner may file a reply to the comments or oppositions within twenty (20) days after their submission, which shall be served on all persons who have filed pleadings and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. For good cause shown, the Commission may specify a shorter time for the filing of reply comments.

(f) The Commission, after consideration of the pleadings, may determine whether the public interest would be served by the grant, in whole or in part, or denial of the request, or may issue a ruling on the complaint or dispute. The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate. In the event that an evidentiary hearing is required, the Commission will determine, on the basis of the pleadings and such other procedures as it may specify, whether temporary relief should be afforded any party pending the hearing and the nature of any such temporary relief.

(g) Where a petition for waiver of the provisions of §§ 76.57(a), 76.59(a), 76.61(a), or 76.63(a), is filed within fifteen (15) days after a request for carriage, a cable television system need not carry the signal of the requesting station pending the Commission's ruling on the petition or on the question of temporary relief pending further proceedings.

(h) On a finding that the public interest so requires, the Commission may determine that a cable television system operating or proposing to operate in a community located outside of the 48 contiguous states shall comply with provisions of Subparts D, F, and G of this part in addition to the provisions thereof otherwise applicable. In such instances, any additional signal carriage that is authorized shall be deemed to be pursuant to the appropriate provision of §§ 76.61 (b) or 76.63(a) (as it relates to § 76.61 (b)).

Subpart B—Applications and Certificates of Compliance

§ 76.11 Certificate of compliance required.

(a) No cable television system shall commence operations or add a television broadcast signal to existing operations unless it receives a certificate of compliance from the Commission.

(b) No cable television system lawfully carrying television broadcast signals in a community prior to March 31, 1972, shall continue carriage of such signals beyond the end of its current franchise period or March 31, 1977, whichever occurs first, unless it receives a certificate of compliance.

(c) A cable television system to which paragraph (b) of this section applies may continue to carry television broadcast signals after expiration of the period specified therein, if an application for certificate is filed at least thirty (30) days prior to the date on which a certificate would otherwise be required and the Commission has not acted on the application.

(d) A certificate of compliance that is granted pursuant to this section shall be valid until the unamended expiration date of the franchise under which the certificated cable television system is operating or will operate, unless the Commission otherwise orders. A cable system may continue to carry television broadcast signals after the expiration of its certificate, if an application for a new certificate is filed at least thirty (30) days prior to the expiration date of the existing certificate and the Commission has not acted on the application.

§ 76.13 Filing of applications.

No standard form is prescribed in connection with the filing of an application for a certificate of compliance; however, three (3) copies of the following information must be provided:

(a) For a cable television system not operational prior to March 31, 1972 (other than systems that were authorized to carry one or more television signals prior to March 31, 1972, but did not commence such carriage prior to that date), an application for certificate of compliance shall include:

(1) The name and mailing address of the operator of the proposed system, community and area to be served, television signals to be carried (other than those permitted to be carried pursuant to § 76.61(b)(2)(ii) or § 76.63(a) (as it related to § 76.61(b)(2)(ii)), proposed date on which cable operations will commence, and, if applicable, a statement that microwave radio facilities are to be used to relay one or more signals;

(2) A copy of FCC Form 325, "Annual Report of Cable Television Systems," supplying the information requested as though the cable system were already in operation as proposed;

(3) A copy of the franchise, license, permit, or certificate granted to construct and operate a cable television system;

(4) A statement that explains how the proposed system's franchise and its plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.31, 76.201, and 76.251;

NOTE: If the proposed system's franchise was issued prior to March 31, 1972, only substantial consistency with the provisions of § 76.31 need be demonstrated in the statement required in subparagraph (4), until the end of the current franchise period, or March 31, 1977, whichever occurs first.

(5) A statement that explains, in terms of the provisions of Subpart D of this part, how carriage of the proposed television signals is consistent with those provisions, including any special showings as to whether a signal is significantly viewed (see § 76.54(b));

(6) An affidavit of service of the information described in subparagraph (1) of this paragraph on the licensee or permittee of any television broadcast station within whose predicted Grade B contour or specified zone the community of the system is located, in whole or in part, the

licensee or permittee of any 100-watt or higher power television translator station licensed to the community of the system, the superintendent of schools in the community of the system, and any local or state educational television authorities;

(7) A statement that a copy of the complete application has been served on the franchising authority, and that if such application is not made available for public inspection by the franchising authority, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

(8) A statement of the proposed system's equal employment opportunity program, as described in § 76.311. However, if the operator of the proposed system believes that the system will (continuously during January, February, and March of the year following commencement of operations) satisfy the conditions in § 76.311(c)(1)(i)(*b*), he may submit a statement justifying that conclusion in lieu of a statement of the proposed system's equal employment opportunity program.

(9) A statement that the filing fee prescribed in § 1.1116 of this chapter is attached.

(b) For a cable television system that proposes to add a television signal to existing operations, or that was authorized to carry one or more television signals prior to March 31, 1972, but did not commence such carriage prior to that date, an application for certificate of compliance shall include:

(1) The name and mailing address of the system, conmmunity and area served or to be served, television signals already being carried, television signals authorized to be carried but not carried prior to March 31, 1972, television signals not previously authorized and now proposed to be carried (other than those permitted to be carried pursuant to § 76.61(b)(2)(ii) or § 76.63(a) (as it relates to § 76.61(b)(2)(ii)), and, if applicable, a statement that microwave relay facilities are to be used to relay one or more signals;

(2) If the system has not commenced operations but has been authorized to carry one or more television signals, a copy of FCC Form 325, "Annual Report of Cable Television Systems," supplying the information requested as though the cable system were already in operation as proposed;

(3) If the system has not commenced operations but has been authorized to carry one or more television signals, a copy of the franchise, license, permit, or certificate granted to construct and operate a cable television system, and a statement that explains how the system's franchise is substantially consistent with the provisions of § 76.31;

NOTE: If only substantial consistency with the provisions of § 76.31 is demonstrated in the statement required in subparagraph (3), a certificate of compliance that is granted pursuant to § 76.11 shall be valid only until the end of the system's current franchise period, or March 31, 1977, whichever occurs first.

(4) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.201 and 76.251;

(5) A statement that explains, in terms of the provisions of Subpart D of this part, how carriage of the television signals not previously authorized is consistent with those provisions, including any special showings as to whether a signal is significantly viewed (see § 76.54(b));

(6) An affidavit of service of the information described in subparagraph (1) of this paragraph on the parties named in paragraph (a)(6) of this section;

(7) A statement that a copy of the complete application has been served on the franchising authority, and that if such application is not made available for public inspection by the franchising authority, the applicant will provide for public inspection of the application at any accessible place (such as a public library, pub-

lic registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

(8) A statement that the filing fee prescribed in § 1.1116 of this chapter is attached.

(c) For a cable television system seeking certification of existing operations in accordance with § 76.11(b), an application for certificate of compliance shall include:

(1) The name and mailing address of the system, community and area served, television signals being carried (other than those permitted to be carried pursuant to § 76.61(b)(2)(ii) or § 76.63(a) (as it relates to § 76.61(b)(2)(ii)), television signals authorized or certified to be carried but not being carried, date on which operations commenced, and date on which its current franchise expires;

(2) A copy of the franchise, license, permit, or certificate under which the system will operate upon Commission certification (if such franchise has not previously been filed), and a statement that explains how the franchise is consistent with the provisions of § 76.31;

(3) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.201 and 76.251;

(4) An affidavit of service of the information described in subparagraph (1) of this paragraph on the parties named in paragraph (a)(6) of this section;

(5) A statement that a copy of the complete application has been served on the franchising authority, and that if such application is not made available for public inspection by the franchising authority, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

(6) A statement that the filing fee prescribed in § 1.1116 of this chapter is attached.

NOTE: As used in § 76.13, the term "predicted Grade B contour" means the field intensity contour defined in § 73.683(a) of this chapter, the location of which is determined exclusively by means of the calculations prescribed in § 73.684 of this chapter.

§ 76.16 Who may sign applications.

(a) Applications for certificates of compliance, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of Government entities shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from from the United States. The attorney shall in that event separately set forth the reasons why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

§ 76.18 Amendment of applications.

An application for a certificate of compliance may be amended as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application, merely by filing three (3) copies of the amendment in question duly executed in accordance with § 76.16. All amendments shall be served on the franchising authority, on all parties that have filed pleadings responsive to the application, and, if the addition or deletion of a television broadcast signal is involved, on all parties served pursuant to § 76.13. Amendments shall be made available for public inspection in the same manner as the application.

§ 76.20 Dismissal of applications.

(a) An application for a certificate of compliance may, upon request of the applicant, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application. An applicant's request for the return of an application will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the application.

§ 76.25 Public notice.

The Commission will give public notice of the filing of applications for certificates of compliance and of amendments thereto that add or delete television signals. A certificate will not be issued sooner than thirty (30) days from the date of public notice.

§76.27 Objections to applications; related matters.

An objection to an application for certificate of compliance or an amendment thereto shall be filed within thirty (30) days of the public notice described in § 76.25. A reply may be filed within twenty (20) days after an objection is filed. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them. All pleadings shall be served on the persons specified in § 76.13, the cable television system, the franchising authority, and any other interested person. Controversies concerning carriage (Subpart D) and program exclusivity (§ 76.91) will be acted on in connection with the certificating process if raised within thirty (30) days of the public notice; any other objection will be treated as a petition for special relief filed pursuant to § 76.7.

Subpart C—Federal-State/Local Regulatory Relationships

§ 76.31 Franchise standards.

(a) In order to obtain a certificate of compliance, a proposed or existing cable television system shall have a franchise or other appropriate authorization that contains recitations and provisions consistent with the following requirements:

(1) The franchisee's legal, character, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements, have been approved by the franchising authority as part of a full public proceeding affording due process;

(2) The franchisee shall accomplish significant construction within one (1) year after receiving Commission certification, and shall thereafter equitably and reasonably extend energized trunk cable to a substantial percentage of its franchise area each year, such percentage to be determined by the franchising authority;

(3) The initial franchise period shall not exceed fifteen (15) years, and any renewal franchise period shall be of reasonable duration;

(4) The franchising authority has specified or approved the initial rates that the franchisee charges subscribers for installation of equipment and regular subscriber services. No increases in rates charged to subscribers shall be made except as authorized by the franchising authority after an appropriate public proceeding affording due process;

(5) The franchise shall specify procedures for the investigation and resolution of all complaints regarding the quality of service, equipment malfunctions, and similar matters, and shall require that the franchisee maintain a local business office or agent for these purposes:

(6) Any modifications of the provisions of this section resulting from amendment by the Commission shall be incorporated into the franchise within one (1) year of adoption of the modification, or at the time of franchise renewal, whichever occurs first. *Provided, however*, That, in an application for certificate of compliance, consistency with these requirements shall not be expected of a cable television system that was in operation prior to March 31, 1972, until the end of its current franchise period, or March 31, 1977, whichever occurs first; *And provided, further*, That on a petition filed pursuant to § 76.7, in connection with an application for certificate of compliance, the Commission may waive consistency with these requirements for a cable system that was not in operation prior to March 31, 1972, and that, relying on an existing franchise, made a significant financial investment or entered into binding contractual agreements prior to March 31, 1972, until the end of its current franchise period, or March 31, 1977, whichever comes first.

(b) The franchise fee shall be reasonable (e.g., in the range of 3–5 percent of the franchisee's gross subscriber revenues per year from cable television operations in the community (including all forms of consideration, such as initial lump sum payments)). If the franchise fee exceeds 3 percent of such revenues, the cable television system shall not receive Commission certification until the reasonableness of the fee is approved by the Commission on showings, by the franchisee, that it will not interfere with the effectuation of Federal regulatory goals in the field of cable television, and, by the franchising authority, that it is appropriate in light of the planned local regulatory program. The provisions of this paragraph shall not be effective with respect to a cable television system that was in operation prior to March 31, 1972, until the end of its current franchise period, or March 31, 1977, whichever occurs first.

Subpart D—Carriage of Television Broadcast Signals

§ 76.51 Major television markets.

For purposes of the cable television rules, the following is a list of the major television markets and their designated communities:

(a) First 50 major television markets:

(1) New York, N.Y.—Linden-Paterson, N.J.
(2) Los Angeles-San Bernardino-Corona-Fontana, Calif.
(3) Chicago, Ill.
(4) Philadelphia, Pa-Burlington, N.J.
(5) Detroit, Mich.
(6) Boston-Cambridge-Worcester, Mass.
(7) San Francisco-Oakland-San Jose, Calif.
(8) Cleveland-Lorain-Akron, Ohio.
(9) Washington, D.C.
(10) Pittsburgh, Pa.
(11) St. Louis, Mo.
(12) Dallas-Fort Worth, Tex.
(13) Minneapolis-St. Paul, Minn.
(14) Baltimore, Md.
(15) Houston, Tex.
(16) Indianapolis-Bloomington, Ind.
(17) Cincinnati, Ohio-Newport, Ky.
(18) Atlanta, Ga.
(19) Hartford-New Haven Britain-Waterbury, Conn.
(20) Seattle-Tacoma, Wash.
(21) Miami, Fla.
(22) Kansas City, Mo.
(23) Milwaukee, Wis.
(24) Buffalo, N.Y.
(25) Sacramento-Stockton-Modesto, Calif.
(26) Memphis, Tenn.
(27) Columbus, Ohio.
(28) Tampa-St. Petersburg, Fla.
(29) Portland, Oreg.
(30) Nashville, Tenn.
(31) New Orleans, La.
(32) Denver, Colo.
(33) Providence, R.I.-New Bedford, Mass.
(34) Albany-Schenectady-Troy, N.Y.
(35) Syracuse, N.Y.
(36) Charleston-Huntington, W. Va.
(37) Kalamazoo-Grand Rapids-Muskegon-Battle Creek, Mich.
(38) Louisville, Ky.
(39) Oklahoma City, Okla.
(40) Birmingham, Ala.
(41) Dayton-Kettering, Ohio.
(42) Charlotte, N.C.
(43) Phoenix-Mesa, Ariz.
(44) Norfolk-Newport News-Portsmouth-Hampton, Va.
(45) San Antonio, Tex.
(46 Greenville-Spartanburg-Anderson, S.C.-Asheville, N.C.
(47) Greensboro-High Point-Winston Salem, N.C.
(48) Salt Lake City, Utah.
(49) Wilkes Barre-Scranton, Pa.
(50) Little Rock, Ark.

(b) Second 50 major television markets:

(51) San Diego, Calif.
(52) Toledo, Ohio.
(53) Omaha, Nebr.
(54) Tulsa, Okla.
(55) Orlando-Daytona Beach, Fla.
(56) Rochester, N.Y.
(57) Harrisburg-Lancaster-York, Pa.
(58) Texarkana, Tex.-Shreveport, La.
(59) Mobile, Ala.-Pensacola, Fla.
(60) Davenport, Iowa-Rock Island-Moline, Ill.
(61) Flint-Bay City-Saginaw, Mich.
(62) Green Bay, Wis.
(63) Richmond-Petersburg, Va.
(64) Springfield - Decatur-Champaign-Jacksonville, Ill.
(65) Cedar Rapids-Waterloo, Iowa.
(66) Des Moines-Ames, Iowa.
(67) Wichita-Hutchinson, Kans.
(68) Jacksonville, Fla.
(69) Cape Girardeau, Mo.-Paducah, Ky.-Harrisburg, Ill.
(70) Roanoke-Lynchburg, Va.
(71) Knoxville, Tenn.
(72) Fresno, Calif.
(73) Raleigh-Durham, N.C.
(74) Johnstown-Altoona, Pa.
(75) Portland-Poland Spring, Maine.
(76) Spokane, Wash.
(77) Jackson, Miss.
(78) Chattanooga, Tenn.
(79) Youngstown, Ohio.
(80) South Bend-Elkhart, Ind.
(81) Albuquerque, N. Mex.
(82) Fort Wayne-Roanoke, Ind.
(83) Peoria, Ill.
(84) Greenville-Washington-New Bern, N.C.
(85) Sioux Falls-Mitchell, S. Dak.
(86) Evansville, Ind.
(87) Baton Rouge, La.
(88) Beaumont-Port Arthur, Tex.
(89) Duluth, Minn.-Superior, Wis.
(90) Wheeling, W. Va.-Steubenville, Ohio.
(91) Lincoln-Hastings-Kearney, Nebr.
(92) Lansing-Onondaga, Mich.
(93) Madison, Wis.
(94) Columbus, Ga.
(95) Amarillo, Tex.
(96) Huntsville-Decatur, Ala.
(97) Rockford-Freeport, Ill.
(98) Fargo-Valley City, N. Dak.
(99) Monroe, La.-El Dorado, Ark.
(100) Columbia, S.C.

§ 76.53 Reference points.

To determine the boundaries of the major and smaller television markets (defined in § 76.5), the following list of reference points for communities having licensed television broadcast stations and/or outstanding construction permits shall be used. Where a community's reference point is not given, the geographic coordinates of the main post office in the community shall be used.

State and community	Latitude			Longitude		
	°	′	″	°	′	″
Alabama:						
Anniston	33	39	49	85	49	47
Birmingham	33	31	01	86	48	36
Decatur	34	36	35	86	58	45
Demopolis	32	30	54	87	50	07
Dothan	31	13	27	85	23	35
Dozier	31	29	30	86	21	59
Florence	34	48	05	87	40	31
Huntsville	34	44	18	86	35	19
Louisville	31	47	00	85	33	09
Mobile	30	41	36	88	02	28
Montgomery	32	22	33	86	18	31
Mount Cheaha State Park	33	29	08	85	48	30
Selma	32	24	28	87	01	18
Tuscaloosa	33	12	05	87	33	44
Alaska:						
Anchorage	61	13	00	149	53	29
College	64	51	22	147	48	30
Fairbanks	64	50	35	147	41	31
Juneau	58	18	08	134	25	09
Sitka	57	02	58	135	20	12
Arizona:						
Flagstaff	35	11	54	111	39	02
Mesa	33	24	54	111	49	41
Nogales	31	20	14	110	56	12
Phoenix	33	27	12	112	04	28
Tucson	32	13	15	110	58	05
Yuma	32	43	16	114	37	01
Arkansas:						
El Dorado	33	12	30	92	39	40
Fayetteville	36	03	41	94	09	38
Fort Smith	35	23	10	94	25	36
Jonesboro	35	50	14	90	42	11
Little Rock	34	44	42	92	16	37
California:						
Bakersfield	35	22	31	119	01	16
Chico	39	44	07	121	49	57
Concord	37	58	46	122	01	51
Corona	33	52	35	117	33	56
El Centro	32	47	25	115	32	45
Eureka	40	48	08	124	09	46
Fontana	34	05	45	117	26	29
Fresno	36	44	12	119	47	11
Guasti	34	03	48	117	35	10
Hanford	36	19	51	119	38	48
Los Angeles	34	03	15	118	14	28
Modesto	37	38	26	120	59	44
Monterey	36	35	44	121	53	30
Oakland	37	48	03	122	16	54
Palm Springs	33	49	22	116	32	46
Redding	40	34	57	122	23	34
Sacramento	38	34	57	121	29	41
Salinas	36	40	24	121	39	25
San Bernardino	34	06	30	117	17	28
San Diego	32	42	53	117	09	21
San Francisco	37	46	39	122	24	40
San Jose	37	20	16	121	53	34
San Luis Obispo	35	16	49	120	39	34
San Mateo	37	34	08	122	19	16
Santa Barbara	34	25	18	119	41	55
Santa Maria	34	57	03	120	26	10
California—Continued						
Stockton	37	57	30	121	17	18
Tulare	36	12	31	119	20	35
Ventura	34	16	47	119	17	22
Visalia	36	19	46	119	17	30
Colorado:						
Colorado Springs	38	50	07	104	49	16
Denver	39	44	58	104	59	22
Durango	37	16	39	107	52	35
Grand Junction	39	04	06	108	33	54
Montrose	38	29	44	107	52	31
Pueblo	38	16	17	104	36	33
Sterling	40	37	20	103	12	25
Connecticut:						
Bridgeport	41	10	49	73	11	22
Hartford	41	46	12	72	40	49
New Britain	41	40	02	72	47	03
New Haven	41	18	25	72	55	30
Norwich	41	31	26	72	04	31
Waterbury	41	33	13	73	02	31
Delaware:						
Wilmington	39	44	46	75	32	51
District of Columbia:						
Washington	38	53	51	77	00	33
Florida:						
Clearwater	27	57	56	82	47	51
Daytona Beach	29	12	44	81	01	17
Fort Lauderdale	26	07	11	80	08	31
Fort Myers	26	38	42	81	52	09
Fort Pierce	27	26	48	80	19	28
Gainesville	29	38	56	82	19	19
Jacksonville	30	19	44	81	39	42
Largo	27	54	54	82	47	32
Leesburg	28	48	43	81	52	30
Melbourne	28	04	41	80	36	29
Miami	25	46	37	80	11	33
Ocala	29	11	34	82	08	14
Orlando	28	32	42	81	22	38
Panama City	30	09	24	85	39	48
Pensacola	30	24	51	87	12	56
St. Petersburg	27	46	18	82	38	19
Sarasota	27	20	05	82	32	20
Tallahassee	30	26	30	84	16	56
Tampa	27	56	58	82	27	25
West Palm Beach	26	42	36	80	03	07
Georgia:						
Albany	31	34	28	84	09	22
Athens	33	57	34	83	22	38
Atlanta	33	45	10	84	23	37
Augusta	33	28	20	81	58	00
Chatsworth	34	46	05	84	46	10
Cochran	32	23	18	83	21	18
Columbus	32	28	07	84	59	24
Dawson	31	46	33	84	26	20
Macon	32	50	12	83	37	36
Pelham	31	07	42	84	09	02
Savannah	32	04	42	81	05	37
Thomasville	30	50	25	83	58	59
Waycross	31	12	19	82	21	47
Wrens	33	12	21	82	23	[illegible]
Guam:						
Agana	13	28	29	144	45	00
Hawaii:						
Hilo	19	43	42	155	06	30
Honolulu	21	18	36	157	51	48
Wailuku	20	53	21	156	30	27
Idaho:						
Boise	43	37	07	116	11	58
Idaho Falls	43	29	39	112	02	28
Lewiston	46	25	05	117	01	10
Moscow	46	43	56	116	59	54
Pocatello	42	51	38	112	27	01
Twin Falls	42	33	25	114	28	21
Illinois:						
Aurora	41	45	22	88	18	56
Bloomington	40	28	56	88	59	32
Carbondale	37	43	35	89	13	00
Champaign	40	07	05	88	14	48
Chicago	41	52	28	87	38	22
Decatur	39	50	37	88	57	11
Elgin	42	02	14	88	16	53
Freeport	42	17	57	89	37	07

State and community	Latitude			Longitude		
	°	′	″	°	′	′
Illinois—Continued						
Harrisburg	37	44	30	88	32	25
Jacksonville	39	44	03	90	13	44
Joliet	41	31	37	88	04	52
LaSalle	41	19	49	89	05	44
Moline	41	30	31	90	30	49
Mount Vernon	38	18	29	88	54	28
Olney	38	43	47	88	05	00
Peoria	40	41	42	89	35	33
Quincy	39	55	50	91	24	12
Rockford	42	16	07	89	05	48
Rock Island	41	30	40	90	34	24
Springfield	39	47	58	89	38	51
Urbana	40	06	41	88	13	13
Indiana:						
Bloomington	39	09	56	86	31	52
Elkhart	41	40	56	85	58	15
Evansville	37	58	20	87	34	21
Fort Wayne	41	04	21	85	08	28
Gary	41	35	50	87	20	07
Hammond	41	35	13	87	27	43
Indianapolis	39	46	07	86	09	46
Lafayette	40	25	11	86	53	39
Marion	40	33	17	85	39	49
Muncie	40	11	28	85	23	16
Richmond	39	49	49	84	53	26
Roanoke	40	57	50	85	22	30
St. John	41	27	00	87	28	13
South Bend	41	40	33	86	15	01
Terre Haute	39	28	03	87	24	26
Vincennes	38	40	52	87	31	12
Iowa:						
Ames	42	01	36	93	36	44
Cedar Rapids	41	58	48	91	39	48
Davenport	41	31	24	90	34	21
Des Moines	41	35	14	93	37	00
Dubuque	42	29	55	90	40	08
Fort Dodge	42	30	12	94	11	05
Iowa City	41	39	37	91	31	52
Mason City	43	09	15	93	12	00
Sioux City	42	29	46	96	24	30
Waterloo	42	29	40	92	20	20
Kansas:						
Ensign	37	38	48	100	14	00
Garden City	37	57	54	100	52	20
Goodland	39	20	53	101	42	35
Great Bend	38	22	04	98	45	58
Hays	38	52	16	99	19	57
Hutchinson	38	03	11	97	55	20
Pittsburg	37	24	50	94	42	11
Salina	38	50	36	97	36	46
Topeka	39	03	16	95	40	23
Wichita	37	41	30	97	20	16
Kentucky:						
Ashland	38	28	36	82	38	23
Bowling Green	36	59	41	86	26	33
Covington	39	05	00	84	30	29
Elizabethtown	37	41	38	85	51	35
Hazard	37	14	54	83	11	31
Lexington	38	02	50	84	29	46
Louisville	38	14	47	85	45	49
Madisonville	37	19	45	87	29	54
Moorehead	38	10	53	83	26	05
Murray	36	36	35	88	18	30
Newport	39	05	28	84	29	20
Owensboro	37	46	27	87	06	46
Owenton	38	32	11	84	50	16
Paducah	37	05	13	88	35	56
Pikeville	37	28	49	82	31	09
Somerset	37	05	35	84	36	17
Louisiana:						
Alexandria	31	18	33	92	26	47
Baton Rouge	30	26	58	91	11	00
Houma	29	35	34	90	43	00
Lafayette	30	13	24	92	01	06
Lake Charles	30	13	45	93	12	52
Monroe	32	30	02	92	06	56
New Orleans	29	56	53	90	04	10
Shreveport	32	30	46	93	44	58
West Monroe	32	30	51	92	08	13

State and community	Latitude			Longitude		
	°	′	″	°	′	″
Maine:						
Augusta	44	18	53	69	46	29
Bangor	44	48	13	68	46	18
Calais	45	11	04	67	16	43
Orono	44	53	15	68	40	12
Poland Spring	44	01	42	70	21	40
Portland	43	39	33	70	15	19
Presque Isle	46	40	57	68	00	52
Maryland:						
Baltimore	39	17	26	76	36	45
Cumberland	39	39	01	78	46	45
Hagerstown	39	38	39	77	43	15
Salisbury	38	21	56	75	36	56
Massachusetts:						
Adams	42	37	30	73	07	08
Boston	42	21	24	71	03	25
Cambridge	42	21	58	71	05	24
Greenfield	42	35	15	72	36	54
New Bedford	41	38	13	70	55	41
Springfield	42	06	21	72	35	32
Worcester	42	16	37	71	48	17
Michigan:						
Allen Park	42	15	12	83	12	57
Battle Creek	42	18	58	85	10	48
Bay City	43	36	01	83	53	15
Cadillac	44	15	10	85	23	52
Cheboygan	45	38	38	84	28	36
Detroit	42	19	48	83	02	57
Escanaba	45	44	45	87	03	18
Flint	43	00	50	83	41	33
Grand Rapids	42	58	03	85	40	13
Jackson	42	14	43	84	24	22
Kalamazoo	42	17	29	85	36	14
Lansing	42	44	01	84	33	15
Marquette	46	32	37	87	23	43
Mount Pleasant	43	16	12	84	46	31
Muskegon	43	14	17	86	15	02
Onondaga	42	26	41	84	33	43
Saginaw	43	25	52	83	56	05
Sault Ste. Marie	46	29	58	84	20	37
Traverse City	44	45	47	85	37	25
University Center	43	33	31	83	59	09
Minnesota:						
Alexandria	45	53	08	95	22	30
Appleton	45	12	00	96	01	02
Austin	43	39	57	92	58	20
Duluth	46	46	56	92	06	24
Hibbing	47	25	43	92	56	21
Mankato	44	09	40	94	00	04
Minneapolis	44	58	57	93	15	43
Rochester	44	01	21	92	28	03
St. Cloud	45	33	35	94	09	38
St. Paul	44	56	50	93	06	11
Walker	47	05	57	94	35	12
Mississippi:						
Biloxi	30	23	43	88	53	08
Bude	31	27	46	90	50	34
Columbus	33	29	40	88	25	33
Greenwood	33	31	05	90	10	56
Gulfport	30	22	04	89	05	38
Jackson	32	17	56	90	11	06
Laurel	31	41	40	89	07	48
Meridian	32	21	57	88	42	02
Oxford	34	22	00	89	31	07
State College	33	27	18	88	47	13
Tupelo	34	15	26	88	42	30
Missouri:						
Cape Girardeau	37	18	29	89	31	29
Columbia	38	57	03	92	19	46
Hannibal	39	42	24	91	22	46
Jefferson City	38	34	40	92	10	24
Joplin	37	05	28	94	30	50
Kansas City	39	04	56	94	35	20
Kirksville	40	11	37	92	34	56
Poplar Bluff	36	45	20	90	23	38
St. Joseph	39	45	57	94	51	02
St. Louis	38	37	45	90	12	22
Sedalia	38	42	06	93	13	26
Springfield	37	13	03	93	17	32

State and community	Latitude			Longitude		
	°	′	″	°	′	″
Montana:						
Anaconda	46	07	50	112	57	12
Billings	45	47	00	108	30	04
Butte	46	01	08	112	32	11
Glendive	47	08	43	104	[illegible]	07
Great Falls	47	29	33	111	18	23
Helena	46	35	33	112	02	24
Kalispell	48	11	45	114	18	44
Miles City	46	24	34	105	50	30
Missoula	46	52	35	113	59	39
Nebraska:						
Albion	41	41	33	97	59	53
Alliance	42	05	54	102	52	08
Bassett	42	35	00	99	32	10
Grand Island	40	55	33	98	20	28
Hastings	40	35	31	98	23	30
Hayes Center	40	30	35	101	01	18
Hay Springs	42	41	08	102	41	22
Kearney	40	41	55	99	04	52
Lexington	40	46	30	99	44	41
Lincoln	40	48	50	96	42	13
McCook	40	12	02	100	37	33
Merriman	42	55	07	101	42	01
Norfolk	42	01	56	97	24	42
North Platte	41	08	14	100	46	48
Omaha	41	15	43	95	56	14
Scottsbluff	41	51	40	103	39	03
Superior	40	01	13	98	04	00
Nevada:						
Elko	40	50	05	115	46	41
Henderson	36	02	03	114	58	57
Las Vegas	36	10	20	115	[illegible]	37
Reno	39	31	27	119	48	40
New Hampshire:						
Berlin	44	28	30	71	10	48
Durham	43	08	02	70	56	26
Hanover	43	42	08	72	17	26
Keene	42	56	08	72	16	44
Lebanon	43	38	34	72	15	12
Littleton	44	18	22	71	46	11
Manchester	42	59	28	71	27	48
New Jersey:						
Atlantic City	39	21	32	74	25	53
Burlington	40	04	21	74	51	47
Camden	39	56	46	75	07	20
Glen Ridge	40	48	16	74	12	14
Linden	40	37	37	74	15	22
Newark	40	44	14	74	10	19
New Brunswick	40	29	36	74	26	49
Paterson	40	54	51	74	09	51
Trenton	40	13	16	74	46	38
Vineland	39	29	13	75	01	17
Wildwood	38	59	13	74	48	43
New Mexico:						
Albuquerque	35	05	01	106	39	06
Carlsbad	32	25	06	104	13	47
Clovis	34	24	11	103	12	09
Portales	34	10	56	103	20	10
Roswell	33	23	47	104	31	33
New York:						
Albany	42	39	01	73	45	01
Binghamton	42	06	08	75	54	47
Buffalo	42	52	52	78	52	21
Carthage	43	58	50	75	36	26
Elmira	42	05	38	76	48	22
Garden City	40	43	36	73	38	08
Ithaca	42	26	53	76	29	42
Jamestown	42	05	45	79	14	40
New York	40	45	06	73	59	39
North Pole	44	23	39	73	51	00
Norwood	44	45	00	75	59	39
Oneonta	42	27	31	75	03	42
Patchogue	40	45	56	73	00	42
Plattsburgh	44	42	08	73	27	07
Riverhead	40	55	05	72	39	51
Rochester	43	09	41	77	36	21
Schenectady	42	48	53	73	56	24
Syracuse	43	03	04	76	09	14
Utica	43	06	12	75	13	33
Watertown	43	58	30	75	54	48
North Carolina:						
Ashville	35	35	42	82	32	36
Chapel Hill	35	54	51	79	03	11
Charlotte	35	13	44	80	50	45
Columbia	35	55	06	76	15	06
Concord	35	24	39	80	34	45
Durham	35	59	48	78	54	20
Fayetteville	35	03	13	78	52	54
Greensboro	36	04	17	79	47	28
Greenville	35	36	49	77	22	23
Hickory	35	43	54	81	20	30
High Point	35	57	14	80	00	15
Jacksonville	34	45	00	77	26	34
Linville	36	04	08	81	52	19
New Bern	35	06	56	77	02	28
Raleigh	35	46	38	78	38	21
Washington	35	32	35	77	03	18
Wilmington	34	14	14	77	56	58
Winston-Salem	36	05	53	80	14	42
North Dakota:						
Bismarck	46	48	23	100	47	17
Devils Lake	48	06	42	98	51	39
Dickinson	46	53	55	102	47	06
Fargo	46	52	30	96	47	18
Minot	48	14	00	101	17	38
Pembina	48	58	00	97	14	37
Valley City	46	55	31	98	00	04
Williston	48	08	47	103	38	[illegible]
Ohio:						
Akron	41	05	00	81	30	44
Athens	39	19	36	82	06	09
Bowling Green	41	22	37	83	39	08
Canton	40	47	50	81	22	37
Cincinnati	39	06	07	84	30	35
Cleveland	41	30	51	81	41	50
Columbus	39	57	47	83	00	17
Dayton	39	45	32	84	11	48
Kettering	39	41	25	84	10	07
Lima	40	44	39	84	06	04
Lorain	41	27	48	82	10	23
Marion	40	35	14	83	07	36
Newark	40	03	25	82	24	15
Oxford	39	30	28	84	44	38
Portsmouth	38	44	05	82	59	38
Springfield	39	55	38	83	48	20
Steubenville	40	21	42	80	36	53
Toledo	41	39	14	83	32	39
Youngstown	41	05	57	80	39	02
Zanesville	39	56	50	82	00	55
Oklahoma:						
Ada	34	46	24	96	40	36
Ardmore	34	10	18	97	07	50
Lawton	34	36	27	98	23	41
Oklahoma City	35	28	26	97	31	04
Sayre	35	17	34	99	38	23
Tulsa	36	09	12	95	59	34
Oregon:						
Coos Bay	43	22	02	124	13	09
Corvallis	44	34	10	123	16	12
Eugene	44	03	16	123	05	39
Klamath Falls	42	13	32	121	46	32
La Grande	45	19	47	118	05	45
Medford	42	19	33	122	52	31
Portland	45	31	06	122	40	35
Roseburg	43	12	34	123	20	28
Salem	44	56	21	123	01	36
Pennsylvania:						
Allentown	40	36	11	75	28	06
Altoona	40	30	36	78	24	03
Bethlehem	40	37	57	75	21	38
Clearfield	41	[illegible]	20	78	26	10
Erie	42	07	15	80	04	57
Harrisburg	40	15	43	76	52	59
Hershey	40	17	06	76	39	01
Johnstown	40	19	35	78	55	05
Lancaster	40	02	25	76	18	29
Philadelphia	39	56	58	75	09	21
Pittsburgh	40	26	19	80	00	00
Reading	40	20	09	75	55	40
Scranton	41	24	32	75	39	48
Wilkes-Barre	41	14	32	75	53	17
York	39	57	35	76	43	36

State and community	Latitude			Longitude		
	°	′	″	°	′	″
Puerto Rico:						
Aguadilla	18	25	53	67	09	18
Arecibo	18	28	28	66	43	39
Caguas	18	13	59	66	02	03
Fajardo	18	19	35	65	39	21
Mayaguez	18	12	18	67	08	36
Ponce	18	00	51	66	36	56
San Juan	18	28	55	66	08	55
Rhode Island:						
Providence	41	49	32	71	24	41
South Carolina:						
Allendale	33	00	30	81	18	28
Anderson	34	30	06	82	38	54
Charleston	32	46	35	79	55	53
Columbia	34	00	02	81	02	00
Florence	34	11	49	79	46	06
Greenville	34	50	50	82	24	01
Spartanburg	34	57	03	81	56	06
South Dakota:						
Aberdeen	45	27	31	98	29	03
Brookings	44	18	38	96	47	53
Florence	45	03	14	97	19	35
Lead	44	21	07	103	46	03
Mitchell	43	43	48	98	01	36
Pierre	44	22	08	100	20	57
Rapid City	44	04	52	103	13	11
Reliance	43	52	45	99	36	18
Sioux Falls	43	32	35	96	43	35
Vermillion	42	46	52	96	55	35
Tennessee:						
Chattanooga	35	02	41	85	18	32
Jackson	35	36	48	88	49	15
Johnston City	36	19	04	82	20	56
Kingsport	36	32	57	82	33	44
Knoxville	35	57	39	83	55	07
Lexington	35	39	58	88	23	31
Memphis	35	08	46	90	03	13
Nashville	36	09	33	86	46	55
Sneedville	36	31	46	83	13	04
Texas:						
Abilene	32	27	05	99	43	51
Amarillo	35	12	27	101	50	04
Austin	30	16	09	97	44	37
Beaumont	30	05	20	94	05	09
Belton	31	03	31	97	27	39
Big Spring	32	15	03	101	28	38
Bryan	30	39	48	96	21	31
College Station	30	37	05	96	20	41
Corpus Christi	27	47	51	97	23	45
Dallas	32	47	09	96	47	37
El Paso	31	45	36	106	29	11
Fort Worth	32	44	55	97	19	44
Galveston	29	18	10	94	47	43
Harlingen	26	11	39	97	41	35
Houston	29	45	26	95	21	37
Laredo	27	30	22	99	30	30
Longview	32	29	24	94	43	45
Lubbock	33	35	05	101	50	33
Lufkin	31	20	14	94	43	21
Midland	31	59	54	102	04	31
Monohans	31	35	18	102	53	28
Nacogodches	31	36	13	94	39	20
Odessa	31	50	49	102	22	01
Port Arthur	29	52	09	93	56	01
Richardson	32	57	08	96	44	05
Rosenberg	29	33	30	95	48	13
San Angelo	31	27	39	100	26	03
San Antonio	29	25	37	98	29	06
Sweetwater	32	28	24	100	24	18
Temple	31	06	02	97	20	22
Texarkana	33	25	29	94	02	34
Tyler	32	21	21	95	17	52
Victoria	28	48	01	97	00	05
Waco	31	33	12	97	08	00
Weslaco	26	09	24	97	59	33
Wichita Falls	33	54	34	98	29	28
Utah:						
Logan	41	44	03	111	50	11
Ogden	41	13	31	111	58	21
Provo	40	14	07	111	39	34
Salt Lake City	40	45	23	111	53	26
Vermont:						
Burlington	44	28	34	73	12	46
Rutland	43	36	29	72	58	56
St. Johnsbury	44	25	16	72	01	13
Windsor	43	28	36	72	23	32
Virginia:						
Bristol	36	35	48	82	11	04
Charlottesville	38	01	52	78	28	50
Goldvein	38	26	54	77	39	19
Hampton	37	01	32	76	20	32
Harrisonburg	38	27	01	78	52	07
Lynchburg	37	24	51	79	09	37
Norfolk	36	51	10	76	17	21
Norton	36	56	05	82	37	31
Petersburg	37	13	40	77	24	16
Portsmouth	36	50	12	76	17	54
Richmond	37	32	15	77	26	09
Roanoke	37	16	13	79	56	44
Staunton	38	09	02	79	04	34
Virgin Islands:						
Charlotte Amalie	18	20	36	64	55	53
Christiansted	17	44	44	64	42	21
Washington:						
Bellingham	48	45	02	122	28	36
Kennewick	46	12	38	119	08	22
Lakewood Center	47	07	37	122	31	15
Pasco	46	13	50	119	05	27
Pullman	46	43	42	117	10	46
Richland	46	16	36	119	16	21
Seattle	47	36	32	122	20	12
Spokane	47	39	32	117	25	33
Tacoma	47	14	59	122	26	15
Yakima	46	36	09	120	30	39
West Virginia:						
Bluefield	37	15	39	81	13	20
Charleston	38	21	01	81	37	52
Clarksburg	39	16	50	80	20	38
Grandview	37	49	28	81	04	20
Huntington	38	25	12	82	26	33
Morgantown	39	37	41	79	57	28
Oak Hill	37	58	31	81	08	45
Parkersburg	39	15	57	81	33	48
Weston	39	02	19	80	28	05
Wheeling	40	04	03	80	43	20
Wisconsin:						
Eau Claire	44	48	31	91	29	49
Fond Du Lac	43	46	35	88	26	52
Green Bay	44	30	48	88	00	50
Janesville	42	40	53	89	01	39
Kenosha	42	35	04	87	49	14
La Crosse	43	48	48	91	15	02
Madison	43	04	23	89	22	55
Milwaukee	43	02	19	87	54	15
Rhinelander	45	38	06	89	24	50
Superior	46	43	14	92	06	07
Wausau	44	57	30	89	37	40
Wyoming:						
Casper	42	51	00	106	19	22
Cheyenne	41	08	09	104	49	07
Rawlins	41	47	23	107	14	37
Riverton	43	01	39	108	23	03

§ 76.54 Significantly viewed signals; method to be followed for special showings.

(a) Signals that are significantly viewed in a county (and thus are deemed to be significantly viewed within all communities within the county) are those that are listed in Appendix B of the Memorandum Opinion and Order on Reconsideration of the Cable Television Report and Order (Docket 18397 et al.), FCC 72-530.

(b) On or after March 31, 1973, significant viewing in a cable television community for signals not shown as significantly viewed under paragraph (a) of this section may be demonstrated by an independent professional audience survey of noncable television homes that covers at least two weekly periods separated by at least thirty (30) days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level. If surveys are taken for more than 2 weekly periods in any 12 months, all such surveys must be submitted and the combined surveys must result in an average figure at least one standard error above the required viewing level.

(c) Notice of a survey to be made pursuant to paragraph (b) of this section shall be served on all licensees or permittees of television broadcast stations within whose predicted Grade B contour the cable community is located, in whole or in part, and on all cable systems, franchisees, and franchise applicants in the cable community at least thirty (30) days prior to the initial survey period. Such notice shall include the name of the survey organization and a description of the procedures to be used. Objections to survey organizations or procedures shall be served on the party sponsoring the survey within twenty (20) days after receipt of such notice.

NOTE: With respect to those counties designated by an asterisk in Appendix B of the Memorandum Opinion and Order on Reconsideration of the Cable Television Report and Order (Docket 18397 et al.), FCC 72-530, surveys of significant viewing made pursuant to § 76.54(b) may be submitted prior to March 31, 1973.

§ 76.55 Manner of carriage.

(a) Where a television broadcast signal is required to be carried by a cable television system, pursuant to the rules in this subpart:

(1) The signal shall be carried without material degradation in quality (within the limitations imposed by the technical state of the art), and where applicable, in accordance with the technical standards of Subpart K of this part;

(2) The signal shall, on request of the station licensee or permittee, be carried on the system on the channel number on which the station is transmitting, except where technically infeasible;

(3) The signal shall, on request of the station licensee or permittee, be carried on the system or no more than one channel.

(b) Where a television broadcast signal is carried by a cable television system, pursuant to the rules in this subpart, the programs broadcast shall be carried in full, without deletion or alteration of any portion except as required by this part.

(c) A cable television system need not carry the signal of any television translator station if (1) the system is carrying the signal of the originating station, or (2) the community of the system is located, in whole or in part, within the Grade B contour of a station carried on the system whose programing is substantially duplicated by the translator station.

(d) If the community of a cable television system is located, in whole or in part, within the Grade B contour of both a satellite and its parent television station, and if the system would otherwise be required to carry both of them pursuant to the rules in this subpart, the system need carry only one of these signals, and may select between them.

§ 76.57 Provisions for systems operating in communities located outside of all major and smaller television markets.

A cable television system operating in a community located wholly outside all major and smaller television markets, as defined in § 76.5, shall carry television broadcast signals in accordance with the following provisions:

(a) Any such cable television system may carry or, on request of the relevant station licensee or permittee, shall carry the signals of:

(1) Television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(2) Television translator stations with 100 watts or higher power serving the community of the system and, as to cable systems that commence operations or expand channel capacity after March 30, 1972, non-commercial educational translator stations with 5 watts or higher power serving the community of the system. In addition, any cable system may elect to carry the signal of any noncommercial educational translator station;

(3) Noncommercial educational television broadcast stations within whose specified zone the community of the system is located, in whole or in part;

(4) Commercial television broadcast stations that are significantly viewed in the community of the system. See § 76.54.

(b) In addition to the television broadcast signals carried pursuant to paragraph (a) of this section, any such cable television system may carry any additional television signals.

§ 76.59 Provisions for smaller television markets.

A cable television system operating in a community located in whole or in part within a smaller television market, as defined in § 76.5, shall carry television broadcast signals only in accordance with the following provisions:

(a) Any such cable television system may carry or, on request of the relevant station licensee or permittee, shall carry the signals of:

(1) Television broadcast stations within whose specified zone the community of the system is located, in whole or in part;

(2) Noncommercial educational television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(3) Commercial television broadcast stations licensed to communities in other smaller television markets, within whose Grade B contours the community of the system is located, in whole or in part;

(4) Television broadcast stations licensed to other communities which are generally considered to be part of the same smaller television market (Example: Burlington, Vt.—Plattsburgh, N.Y., television market);

(5) Television translator stations with 100 watts or higher power serving the community of the system and, as to cable systems that commence operations or expand channel capacity after March 30, 1972, noncommercial educational translator stations with 5 watts or higher power serving the community of the system. In addition, any cable system may elect to carry the signal of any noncommercial educational translator station;

(6) Commercial television broadcast stations that are significantly viewed in the community of the system. See § 76.54.

(b) Any such cable television system may carry sufficient additional signals so that, including the signals required to be carried pursuant to paragraph (a) of this section, it can provide the signals of a full network station of each of the major national television networks, and of one independent television station: *Provided, however*, That, in determining how many additional signals may be carried, any authorized but not operating television broadcast station that, if operational, would be required to be carried pursuant to paragraph (a) (1) of this section, shall be considered to be operational for a period terminating 18 months after grant of its initial construction permit. The following priorities are applicable to the additional television signals that may be carried:

(1) *Full network stations.* A cable television system may carry the nearest full network stations, or the nearest in-State full network stations;

NOTE: The Commission may waive the requirements of this subparagraph for good cause shown in a petition filed pursuant to § 76.7.

(2) *Independent station.* A cable television system may carry any independent television station: *Provided, however,* That if a signal of a station in the first 25 major television markets (see § 76.51 (a)) is carried pursuant to this subparagraph, such signal shall be taken from one of the two closest such markets, where such signal is available.

NOTE: It is not contemplated that waiver of the provisions of this subparagraph will be granted.

* * *

(c) In addition to the noncommercial educational television broadcast signals carried pursuant to paragraph (a) of this section, any such cable television system may carry the signals of any noncommercial educational stations that are operated by an agency of the State within which the system is located. Such system may also carry any other noncommercial educational signals, in the absence of objections filed pursuant to § 76.7 by any local noncommercial educational station or State or local educational television authority.

(d) In addition to the television broadcast signals carried pursuant to paragraphs (a) through (c) of this section, any such cable television system may carry:

(1) Any television stations broadcasting predominantly in a non-English language; and

(2) Any television station broadcasting a network program that will not be carried by a station normally carried on the system. Carriage of such additional stations shall be only for the duration of the network programs not otherwise available, and shall not require prior Commission notification or approval in the certificating process.

(e) Where the community of a cable television system is wholly or partially within both one of the first 50 major television markets and a smaller television market, the carriage provisions for the first 50 major markets shall apply. Where the community of a system is wholly or partially within both one of the second 50 major television markets and a smaller television market, the carriage provisions for the second 50 major markets shall apply.

§ 76.61 Provisions for first 50 major television markets.

A cable television system operating in a community located in whole or in part within one of the first 50 major television markets listed in § 76.51(a) shall carry television broadcast signals only in accordance with the following provisions:

(a) Any such cable television system may carry, or on request of the relevant station licensee or permittee, shall carry the signals of:

(1) Television broadcast stations within whose specified zone the community of the system is located, in whole or in part: *Provided, however,* That where a cable television system is located in the designated community of a major television market, it shall not carry the signal of a television station licensed to a designated community in another major television market, unless the designated community in which the cable system is located is wholly within the specified zone (see § 76.5(f)) of the station, except as otherwise provided in this section;

(2) Noncommercial educational television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(3) Television translator stations with 100 watts or higher power serving the community of the system and, as to cable systems that commence operations or expand channel capacity after March 30, 1972, noncommercial educational translator stations with 5 watts or higher power serving the community of the system. In addition, any cable system may elect to carry the signal of any noncommercial educational translator station;

(4) Television broadcast stations licensed to other designated communities of the same major television market (Example: Cincinnati, Ohio-Newport, Ky., television market);

(5) Commercial television broadcast stations that are significantly viewed in the community of the system See § 76.54.

(b) Any such cable television system may carry sufficient additional signals so that, including the signals required to be carried pursuant to paragraph (a) of this section, it can provide the signals of a full network station of each of the major national television networks, and of three independent television stations: *Provided, however,* That in determining how many additional signals may be carried, any authorized but not operating television broadcast station that, if operational, would be required to be carried pursuant to paragraph (a)(1) of this section, shall be considered to be operational for a period terminating 18 months after grant of its initial construction permit. The following priorities are applicable to the additional television signals that may be carried:

(1) *Full network stations.* A cable television system may carry the nearest full network stations, or the nearest in-State full network stations;

NOTE: The Commission may waive the requirements of this subparagraph for good cause shown in a petition filed pursuant to § 76.7.

(2) *Independent stations.* (i) For the first and second additional signals, if any, a cable television system may carry the signals of any independent television station: *Provided, however,* That if signals of stations in the first 25 major television markets (see § 76.51(a)) are carried pursuant to this subparagraph, such signals shall be taken from one or both of the two closest such markets, where such signals are available. If a third additional signal may be carried, a system shall carry the signal of any independent UHF television station located within 200 air miles of the reference point for the community of the system (see § 76.53), or, if there is no such station, either the signal of any independent VHF television station located within 200 air miles of the reference point for the community of the system, or the signal of any independent UHF television station.

NOTE: It is not contemplated that waiver of the provisions of this subparagraph will be granted.

(ii) Whenever, pursuant to Subpart F of this part, a cable television system is required to delete a television program on a signal carried pursuant to subdivision (i) of this subparagraph or paragraph (c) of this section, or a program on such a signal is primarily of local interest to the distant community (e.g., a local news or public affairs program), such system may, consistent with the program exclusivity rules of Subpart F of this part, substitute a program from any other television broadcast station. A program substituted may be carried to its completion, and the cable system need not return to its regularly carried signal until it can do so without interrupting a program already in progress.

(c) After the service standards specified in paragraph (b) of this section have been satisfied, a cable television system may carry two additional independent television broadcast signals, chosen in accordance with the priorities specified in paragraph (b)(2) of this section: *Provided, however,* That the number of additional signals permitted under this paragraph shall be reduced by the number of signals added to the system pursuant to paragraph (b) of this section.

(d) In addition to the noncommercial educational television broadcast signals carried pursuant to paragraph (a) of this section, any such cable television system may carry the signals of any noncommercial educational stations that are operated by an agency of the State within which the system is located. Such system may also carry any other noncommercial educational signals, in the absence of objection filed pursuant to § 76.7 by any local noncommercial educational station or State or local educational television authority.

(e) In addition to the television broadcast signals carried pursuant to paragraphs (a) through (d) of this section, any such cable television system may carry:

(1) Any television stations broadcasting predominantly in a non-English language; and

(2) Any television station broadcasting a network program that will not be carried by a station normally carried on the system. Carriage of such additional stations shall be only for the duration of the network programs not otherwise available, and shall not require prior Commission notification or approval in the certificating process.

(f) Where the community of a cable television system is wholly or partially within both one of the first 50 major television markets and another television market, the provisions of this section shall apply.

§ 76.63 Provisions for second 50 major television markets.

(a) A cable television system operating in a community located in whole or in part within one of the second 50 major television markets listed in § 76.51(b) shall carry television broadcast signals only in accordance with the provisions of § 76.61, except that in paragraph (b) of § 76.61, the number of additional independent television signals that may be carried is two (2).

(b) Where the community of a cable television system is wholly or partially within both one of the second 50 major television markets and one of the first 50 major television markets, the carriage provisions for the first 50 major markets shall apply. Where the community of a system is wholly or partially within both one of the second 50 major television markets and a smaller television market, the provisions of this section shall apply.

§ 76.65 Grandfathering provisions.

The provisions of §§ 76.57, 76.59, 76.61, and 76.63 shall not be deemed to require the deletion of any television broadcast or translator signals which a cable television system was authorized to carry or was lawfully carrying prior to March 31, 1972: *Provided, however*, That if carriage of a signal has been limited by Commission order to discrete areas of a community, any expansion of service will be subject to the appropriate provisions of this subpart. If a cable television system in a community is authorized to carry signals, either by virtue of specific Commission authorization or otherwise, any other cable television system already operating or subsequently commencing operations in the same community may carry the same signals. (Any such new system shall, before instituting service, obtain a certificate of compliance, pursuant to § 76.11.)

Subpart E—[Reserved]

Subpart F—Program Exclusivity

§ 76.91 Stations entitled to network program exclusivity.

(a) Any cable television system operating in a community, in whole or in part, within the Grade B contour of any television broadcast station, or within the community of a 100-watt or higher power television translator station, and that carries the signal of such station shall, on request of the station licensee or permittee, maintain the station's exclusivity as an outlet for network programing against lower priority duplicating signals, but not against signals of equal priority, in the manner and to the extent specified in §§ 76.93 and 76.95.

(b) For purposes of this section, the order of priority of television signals carried by a cable television system is as follows:

(1) First, all television broadcast stations within whose principal community contours the community of the system is located, in whole or in part;

(2) Second, all television broadcast stations within whose Grade A contours the community of the system is located, in whole or in part;

(3) Third, all television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(4) Fourth, all television translator stations with 100 watts or higher power, licensed to the community of the system.

(c) If the signal of a television broadcast station licensed to a community in a smaller television market is carried by a cable television system, pursuant to § 76.57(a)(4), such signal shall, on request, be afforded network program exclusivity. This provision shall not be applicable to any signal authorized or lawfully carried by a cable television system prior to March 31, 1972.

§ 76.93 Extent of protection.

(a) Where the network programming of a television station is entitled to program exclusivity, the cable television system shall, on request of the station licensee or permittee, refrain from simultaneously duplicating any network program broadcast by such station, if the cable operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. On request of the cable system, such notice shall be given no later than the Monday preceding the calendar week (Sunday–Saturday) during which exclusivity is sought.

(b) Notwithstanding the provisions of paragraph (a) of this section, on request of a television station licensed to a community in the Mountain Standard Time Zone that is not one of the designated communities in the first 50 major television markets, a cable television system shall refrain from duplicating any network program broadcast by such station on the same day as its broadcast by the station. Where a cable system is required to provide same-day program exclusivity, the following provisions shall be applicable:

(1) A cable television system need not delete reception of a network program if, in so doing, it would leave available for reception by subscribers, at any time, less than the programs of two networks (including those broadcast by any stations whose signals are being carried and whose program exclusivity is being protected pursuant to the requirements of this section);

(2) A system need not delete reception of a network program which is scheduled by the network between the hours of 6 and 11 p.m., eastern time, but is broadcast by the station requesting deletion, in whole or in part, outside of the period which would normally be con-

sidered prime time for network programing in the time zone involved.

§ 76.95 Exceptions.

Notwithstanding the requirements of § 76.93:

(a) A cable television system need not delete reception of any program which would be carried on the system in color but will be broadcast in black and white by the station requesting deletion.

(b) The Commission will give full effect to private agreements between operators of cable television systems and local television stations which provide for a type or degree of network exclusivity which differs from the requirements of §§ 76.91 and 76.93.

§ 76.97 Waiver petitions.

Where a petition for waiver of the provisions of §§ 76.91 and 76.93 is filed within fifteen (15) days after a request for program exclusivity is received by the operator of a cable television system, such system need not provide program exclusivity pending the Commission's ruling on the petition or on the question of temporary relief pending further proceedings.

§ 76.99 Grandfathering.

The provisions of §§ 76.91, 76.93, 76.151, and 76.153 shall not be deemed to deprive a television station whose signal was carried by a cable television system prior to March 31, 1972, of the nonnetwork program exclusivity rights that such station had on March 30, 1972; *Provided, however,* That such exclusivity rights shall extend only to simultaneous duplication of programing by lower priority television stations, unless the station whose exclusivity rights are at issue is entitled to same-day network program exclusivity pursuant to § 76.93(b), in which case that station shall also be entitled to continued same-day nonnetwork program exclusivity.

§ 76.151 Syndicated program exclusivity; extent of protection.

Upon receiving notification pursuant to § 76.155:

(a) No cable television system, operating in a community in whole or in part within one of the first 50 major television markets, shall carry a syndicated program, pursuant to § 76.61 (b), (c), (d), or (e), for a period of 1 year from the date that program is first licensed or sold as a syndicated program to a television station in the United States for television broadcast exhibition;

(b) No cable television system, operating in a community in whole or in part within a major television market, shall carry a syndicated program, pursuant to §§ 76.61 (b), (c), (d), or (e), or 76.63 (a) (as it refers to § 76.61 (b), (c), (d), or (e)), while a commercial television station licensed to a designated community in that market has exclusive broadcast exhibition rights (both over-the-air and by cable) to that program: *Provided, however,* That if a commercial station licensed to a designated community in one of the second 50 major television markets has such exclusive rights, a cable television system located in whole or in part within the market of such station may carry such syndicated program in the following circumstances:

(1) If the program is carried by the cable television system in prime time and will not also be broadcast by a commercial market station in prime time during the period for which there is exclusivity for the program;

(2) For off-network series programs:

(i) Prior to the first nonnetwork broadcast in the market of an episode in the series;

(ii) After a nonnetwork first-run of the series in the market or after 1 year from the date of the first nonnetwork broadcast in the market of an episode in the series, whichever occurs first;

(3) For first-run series programs:

(i) Prior to the first broadcast in the market of an episode in the series;

(ii) After two (2) years from the first broadcast in the market of an episode in the series;

(4) For first-run, nonseries programs:

(i) Prior to the date the program is

available for broadcast in the market under the provision of any contract or license of a television broadcast station in the market;

(ii) After two (2) years from the date of such first availability;

(5) For feature films:

(i) Prior to the date such film is available for nonnetwork broadcast in the market under the provisions of any contract or license of a television broadcast station in the market;

(ii) Two (2) years after the date of such first availability;

(6) For other programs: 1 day after the first nonnetwork broadcast in the market or 1 year from the date of purchase of the program for nonnetwork broadcast in the market, whichever occurs first.

NOTE: For purposes of § 76.151, a series will be treated as a unit, that is:

(i) No episode of a series (including an episode in a different package of programs in the same series) may be carried by a cable television system, pursuant to §§ 76.61 (b), (c), (d), or (e) or 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e)) while any episodes of the series are subject to exclusivity protection.

(ii) In the second 50 major television markets, no exclusivity will be afforded a different package of programs in the same series after the initial exclusivity period has terminated.

NOTE 2: As used in this section, the phrase "broadcast in the market" or "broadcast by a market station" refers to a broadcast by a television station licensed to a designated community in the market.

§ 76.153 Parties entitled to exclusivity.

(a) Copyright holders of syndicated programs shall be entitled to the exclusivity provided by § 76.151(a). In order to receive such exclusivity, the copyright holder shall notify each cable system of the exclusivity sought in accordance with the requirements of § 76.155.

(b) Television broadcast stations licensed to designated communities in the major television markets shall be entitled to the exclusivity provided by § 76.151 (b). In order to receive such exclusivity, such television stations shall notify each cable system of the exclusivity sought in accordance with the requirements of § 76.155.

(c) In order to be entitled to exclusivity for a program under § 76.151(b), a television station must have an exclusive right to broadcast that program against all other television stations licensed to the same designated community and against broadcast signal cable carriage of that program in the cable system community: *Provided, however*, That such exclusivity will not be recognized in a designated community of another major television market unless such community is wholly within the television market of the station seeking exclusivity. In hyphenated markets, exclusivity will be recognized beyond the specified zone of a station only to the extent the station has exclusivity against other stations in the designated communities of the market. In such instances, exclusivity to the extent a station has obtained it will be recognized within the specified zones of such other stations. It shall be presumed that broadcast rights acquired prior to March 31, 1972, are exclusive for the specified zones of all stations in the market in which the station is located.

§ 76.155 Notification.

(a) Syndicated program exclusivity notifications shall include the following information:

(1) For purposes of § 76.151(a):

(i) The name and address of the copyright holder requesting exclusivity;

(ii) The name of the program or series for which exclusivity is sought;

(iii) The date of first sale or license of the program for television broadcast as a syndicated program in the United States.

(2) For purposes of § 76.151(b):

(i) The name and address of the television broadcast station requesting exclusivity;

(ii) The name of the program or series for which exclusivity is sought;

(iii) The dates on which exclusivity is to commence and terminate;

(iv) As to programs to be deleted from signals regularly carried by the system pursuant to §§ 76.61 (b), (c), (d), or (e) and 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e)): the name of the program; the call letters of the station from which the deletion is to be made; and the date, time, and duration of the deletion. Information, once supplied pursuant to subparagraphs (2) (i), (ii), (iii), or (3) of this paragraph, need not be repeated in any notification supplying the information required by this subparagraph.

(3) For purposes of § 76.151(b) (as it relates to television stations licensed to designated communities in the second 50 major television markets), the following information shall be supplied in addition to that required by subparagraph (2) of this paragraph:

(i) Whether the program will be broadcast in prime time by the station requesting exclusivity during the period of protection provided in § 76.151(b);

(ii) The specific rule pursuant to which exclusivity is requested (e.g., § 76.151 (b)(2)—off-network series, § 76.151(b) (3)—first-run series);

(iii) For off-network series programs, the number of showings contracted for, including the number of repeat presentations, if any, and the date when the first run is to end.

(b) Subject to the provisions of paragraph (c) of this section, notifications given pursuant to § 76.151 must be received no later than the Monday preceding the calendar week (Sunday-Saturday) during which exclusivity is sought.

(c) Direct notice of a change in the schedule of a television station against which exclusivity is sought, given to a cable television system by a television station seeking exclusivity, shall, if given more than 36 hours prior to the time a deletion is to be made, supersede prior notifications containing the information required by paragraph (a) of this section and any information otherwise relied on pursuant to paragraph (d) of this section.

(d) In determining which programs must be deleted from a television signal when such information is not required to be provided pursuant to paragraph (a) of this section, a cable television system may rely on information from any of the following sources published or made available during the week the deletion is to be made or during the prior week:

(i) Newspapers or journals of general circulation in the service area of a television station whose programs may be subject to deletion;

(ii) A television station whose programs may be subject to deletion;

(iii) Any television station requesting exclusivity.

§ 76.157 Exclusivity contracts.

With respect to each program as to which a television broadcast station licensee or permittee requests exclusivity pursuant to § 76.151, such licensee or permittee shall maintain in its public file an exact copy of those portions of the exclusivity contract, such portions to be signed by both the copyright holder and the licensee or permittee, setting forth in full the provisions pertinent to the duration, nature, and extent of the exclusivity terms concerning broadcast signal exhibition (whether over-the-air or by cable) to which the parties have agreed.

§ 76.159 Grandfathering.

The provisions of § 76.151 shall not be deemed to require a cable television system to delete programing from any signal that was carried prior to March 31, 1972, or that any other cable television system in the same community was carrying prior to March 31, 1972: *Provided, however*, That if carriage of a signal has been limited by Commission order to discrete areas of a community, any expansion of service will be subject to the appropriate provisions of the subpart.

Subpart G—Cablecasting

§ 76.201 Origination cablecasting in conjunction with carriage of broadcast signals.

(a) No cable television system having 3,500 or more subscribers shall carry the signal of any television broadcast station unless the system also operates to a significant extent as a local outlet by origination cablecasting and has available facilities for local production and presentation of programs other than automated services. Such origination cablecasting shall be limited to one or more designated channels which may be used for no other cablecasting purpose.

(b) No cable television system located outside of all major television markets shall enter into any contract, arrangement, or lease for use of its cablecasting facilities which prevents or inhibits the use of such facilities for a substantial portion of time (including the time period 6–11 p.m.) for local programming designed to inform the public on controversial issues of public importance.

(c) No cable television system shall carry the signal of any television broadcast station if the system engages in origination cablecasting, either voluntarily or pursuant to paragraph (a) of this section, unless such cablecasting is conducted in accordance with the provisions of §§ 76.205, 76.209, 76.213, 76.215, 76.217, 76.221, and 76.225.

§ 76.205 Origination cablecasts by candidates for public office.

(a) *General requirements.* If a cable television system shall permit any legally qualified candidate for public office to use its origination channel(s) and facilities therefor, it shall afford equal opportunities to all other such candidates for that office: *Provided, however,* That such system shall have no power of censorship over the material cablecast by any such candidate; *And provided, further,* That an appearance by a legally qualified candidate on any:

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of the facilities of the system within the meaning of this paragraph.

NOTE: The Fairness Doctrine is applicable to these exempt categories. See § 76.209.

(b) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform, shall not be rebated by any means direct or indirect, and shall not exceed the charges made for comparable origination use of such facilities for other purposes.

(2) In making facilities available to candidates for public office no cable television system shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any cable television system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

(c) *Records, inspections.* Every cable television system shall keep and permit public inspection of a complete record of all requests for origination cablecasting time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, the charges made, if any, and the length and time of cablecast, if the request is granted. Such records shall be retained for a period of 2 years.

(d) *Time of request.* A request for equal opportunities for use of the origination channel(s) must be submitted to the cable television system within one (1) week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within one (1) week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(e) *Burden of proof.* A candidate requesting such equal opportunities of the cable television system, or complaining of noncompliance to the Commission, shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

§ 76.209 Fairness doctrine; personal attacks; political editorials.

(a) A cable television system engaging in origination cablecasting shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

NOTE: See public notice, "Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 F.R. 10415.

(b) When, during such origination cablecasting, an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group, the cable television system shall, within a reasonable time and in no event later than one (1) week after the attack, transmit to the person or group attacked: (1) Notification of the date, time, and identification of the cablecast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the system's facilities.

(c) The provisions of paragraph (b) of this section shall not be applicable: (1) To attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (b) of this section shall be applicable to editorials of the cable television system).

(d) Where a cable television system, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the system shall, within 24 hours after the editorial, transmit to respectively (i) the other qualified candidate or candidates for the same office, or (ii) the candidate opposed in the editorial, (*a*) notification of the date, time, and channel of the editorial; (*b*) a script or tape of the editorial; and (*c*) an offer of a reasonable opportunity for a candidate or a spokesman of the candidate to respond over the system's facilities: *Provided, however,* That where such editorials are cablecast within 72 hours prior to the day of the election, the system shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

§ 76.213 Lotteries.

(a) No cable television system when engaged in origination cablecasting shall transmit or permit to be transmitted on the origination cablecasting channel or channels any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.

(b) The determination whether a particular program comes within the provisions of paragraph (a) of this section depends on the facts of each case. However, the Commission will in any event consider that a program comes within the provisions of paragraph (a) of this section if in connection with such program a prize consisting of money or thing of value is awarded to any person whose selection is dependent in whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners are required to furnish any money or thing of value or are required to have in their possession any product sold, manufactured, furnished, or distributed by a sponsor of a program cablecast on the system in question.

§ 76.215 Obscenity.

No cable television system when engaged in origination cablecasting shall transmit or permit to be transmitted on the origination cablecasting channel or channels material that is obscene or indecent.

§ 76.217 Advertising.

A cable television system engaged in origination cablecast programming may present advertising material at the beginning and conclusion of each such program and at natural intermissions or breaks within a cablecast: *Provided, however*, That the system itself does not interrupt the presentation of program material in order to intersperse advertising: *And provided, further*, That advertising material is not presented on or in connection with origination cablecasting in any other manner.

NOTE: The term "natural intermissions or breaks within a cablecast" means any natural intermission in the program material which is beyond the control of the cable television operator, such as time-out in a sporting event, an intermission in a concert or dramatic performance, a recess in a city council meeting, an intermission in a long motion picture which was present at the time of theatre exhibition, etc.

§ 76.221 Sponsorship identification.

(a) When a cable television system engaged in origination cablecasting presents any matter for which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, such system, the system shall make an announcement that such matter is sponsored, paid for, or furnished, either in whole or in part, and by whom or on whose behalf such consideration was supplied: *Provided, however*, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, such cablecasting unless it is so furnished as consideration for an identification in a cablecast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the cablecast.

(b) Each system engaged in origination cablecasting shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program matter for origination cablecasting, information to enable it to make the announcement required by this section.

(c) In the case of any political program or any program involving the discussion of public controversial issues for which any films, records, transcriptions, talent, script, or other material or services of any kind are furnished, either directly or indirectly, to a cable television system as an inducement to the origination cablecasting of such program, an announcement to this effect shall be made at the beginning and conclusion of such program: *Provided, however*, That only one such announcement need be made in the case of any such program of five (5) minutes' duration or less, either at the beginning or conclusion of the program.

(d) The announcements required by this section are waived with respect to feature motion picture films produced initially and primarily for theater exhibition.

§ 76.225 Per-program or per-channel charges for reception of cablecasts.

(a) Origination or access cablecasting operations for which a per-program or per-channel charge is made shall comply with the following requirements:

(1) Feature films shall not be cablecast which have had general release in theaters anywhere in the United States more than two (2) years prior to their cablecast: *Provided, however*, That during 1 week of each calendar month one feature film the general release of which occurred more than ten (10) years previously may be cablecast, and more than a single showing of such film may be made during that week: *Provided, further*, That feature films the general release of which occurred between two (2) and ten (10) years before proposed cablecast may be cablecast upon a convincing showing to the Commisison that bona fide attempt has been made to sell the films for conventional television broadcasting and that they have been refused, or that the owner of the broadcast rights to the films will not permit them to be televised on conventional television because he has been unable to work out satisfactory arrangements concerning editing for presentation thereon, or perhaps because he intends never to show them on conventional television since to do so might impair their repetitive box office potential in the future.

NOTE: As used in this subparagraph, "general release" means the first-run showing of a feature film in a theatre or theatres in an area, on a nonreserved-seat basis, with continuous performances. For first-run showing of feature films on a nonreserved-seat basis which are not considered to be "general release" for purposes of this subparagraph, see note 56 in Fourth Report and Order in Docket No. 11279, 15 FCC 2d 466.

(2) Sports events shall not be cablecast which have been televised live on a nonsubscription, regular basis in the community during the two (2) years preceding their proposed cablecast: *Provided, however*, That if the last regular occurrence of a specific event (e.g., summer Olympic games) was more than two (2) years before proposed showing on cable television in a community and the event was at that time televised on conventional television in that community, it shall not be cablecast.

NOTE 1: In determining whether a sports event has been televised in a community on a nonsubscription basis, only commercial television broadcast stations which place a Grade A contour over the entire community will be considered. Such stations need not necessarily be licensed to serve that community.

NOTE 2: The manner in which this subparagraph will be administered and in which "sports," "sports events," and "televised live on a nonsubscription regular basis" will be construed is explained in paragraphs 288–305 in Fourth Report and Order in Docket No. 11279, 15 FCC 2d 466.

(3) No series type of program with interconnected plot or substantially the same cast of principal characters shall be cablecast.

(4) Not more than 90 percent of the total cablecast programing hours shall consist of feature films and sports events combined. The percentage calculations may be made on a yearly basis, but, absent a showing of good cause, the percentage of such programing hours may not exceed 95 percent of the total cablecast programing hours in any calendar month.

(5) No commercial advertising announcements shall be carried on such channels during such operations except, before and after such programs, for promotion of other programs for which a per-program or per-channel charge is made.

§ 76.251 Minimum channel capacity; access channels.

(a) No cable television system operating in a community located in whole or in part within a major television market, as defined in § 76.5, shall carry the signal of any television broadcast station unless the system also complies with the following requirements concerning the availability and administration of access channels:

(1) *Minimum channel capacity.* Each such system shall have at least 120 MHz of bandwidth (the equivalent of 20 television broadcast channels) available for

immediate or potential use for the totality of cable services to be offered;

(2) *Equivalent amount of bandwidth.* For each Class I cable channel that is utilized, such system shall be capable of providing an additional channel, 6 MHz in width, suitable for transmission of Class II or Class III signals (see § 76.5 for cable channel definitions);

(3) *Two-way communications.* Each such system shall maintain a plant having technical capacity for nonvoice return communications;

(4) *Public access channel.* Each such system shall maintain at least one specially designated, noncommercial public access channel available on a first-come, nondiscriminatory basis. The system shall maintain and have available for public use at least the minimal equipment and facilities necessary for the production of programing for such a channel. See also § 76.201;

(5) *Education access channel.* Each such system shall maintain at least one specially designated channel for use by local educational authorities;

(6) *Local government access channel.* Each such system shall maintain at least one specially designated channel for local government uses;

(7) *Leased access channels.* Having satisfied the origination cablecasting requirements of § 76.201, and the requirements of subparagraphs (4), (5), and (6) of this paragraph for specially designated access channels, such system shall offer other portions of its nonbroadcast bandwidth, including unused portions of the specially designated channels, for leased access services. However, these leased channel operations shall be undertaken with the express understanding that they are subject to displacement if there is a demand to use the channels for their specially designated purposes. On at least one of the leased channels, priority shall be given part-time users;

(8) *Expansion of access channel capacity.* Whenever all of the channels described in subparagraphs (4) through (7) of this paragraph are in use during 80 percent of the weekdays (Monday-Friday) for 80 percent of the time during any consecutive 3-hour period for 6 consecutive weeks, such system shall have 6 months in which to make a new channel available for any or all of the above-described purposes;

(9) *Program content control.* Each such system shall exercise no control over program content on any of the channels described in subparagraphs (4) through (7) of this paragraph; however, this limitation shall not prevent it from taking appropriate steps to insure compliance with the operating rules described in subparagraph (11) of this paragraph;

(10) *Assessment of costs.* (i) From the commencement of cable television service in the community of such system until five (5) years after completion of the system's basic trunk line, the channels described in subparagraphs (5) and (6) of this paragraph shall be made available without charge.

(ii) One of the public access channels described in subparagraph (4) of this paragraph shall always be made available without charge, except that production costs may be assessed for live studio presentations exceeding 5 minutes. Such production costs and any fees for use of other public access channels shall be consistent with the goal of affording the public a low-cost means of television access;

(11) *Operating rules.* (i) For the public access channel(s), such system shall establish rules requiring first-come nondiscriminatory access; prohibiting the presentation of: Any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter (modeled after the prohibitions in §§ 76.213 and 76.215, respectively); and permitting public inspection of a compelte record of the names and adresses of all persons or groups requesting access time. Such a record shall be retained for a period of 2 years.

(ii) For the educational access channel(s), such system shall establish rules prohibiting the presentation of: Any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter (modeled after the prohibitions in §§ 76.213 and 76.215, respectively) and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of 2 years.

(iii) For the leased channel(s), such system shall establish rules requiring first-come, nondiscriminatory access; prohibiting the presentation of lottery information and obscene or indecent matter (modeled after the prohibitions in §§ 76.213 and 76.215, respectively); requiring sponsorship identification (see § 76.221); specifying an appropriate rate schedule; and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of 2 years.

(iv) The operating rules governing public access, educational, and leased channels shall be filed with the Commission within 90 days after a system first activates any such channels, and shall be available for public inspection at the system's offices. Except on specific authorization, or with respect to the operation of the local government access channel, no local entity shall prescribe any other rules concerning the number or manner of operation of access channels; however, franchise specifications concerning the number of such channels for systems in operation prior to March 31, 1972, shall continue in effect.

(b) No cable television system operating in a community located wholly outside of all major television markets shall be required by a local entity to exceed the provisions concerning the availability and administration of access channels contained in paragraph (a) of this section. If a system provides any access programing, it shall comply with paragraph (a) (9), (10), and (11) of this section.

(c) The provisions of this section shall apply to all cable television systems that commence operations on or after March 31, 1972, in a community located in whole or in part within a major television market. Systems that commenced operations prior to March 31, 1972, shall comply on or before March 31, 1977: *Provided, however*, That, if such systems begin to provide any of the access services described above at an earlier date, they shall comply with paragraph (a) (9), (10), and (11) of this section at that time: *And provided, further*, That if such systems receive certificates of compliance to add television signals to their operations at an earlier date, pursuant to § 76.61(b) or (c), or § 76.63(a) (as it relates to § 76.61(b) or (c)), for each such signal added, such systems shall provide one (1) access channel in the following order of priority—(1) public access, (2) education access, (3) local government access, and (4) leased access—and shall comply with the appropriate requirements of paragraphs (a)(4)–(7) and (a)(9)–(11) of this section with respect thereto.

Subpart H—General Operating Requirements

§ 76.301 Copies of rules.

The operator of a cable television system shall have a current copy of Part 76, and is expected to be familiar with the rules governing cable television systems. Copies of the Commission's rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, at nominal cost.

§ 76.305 Logging and recordkeeping requirements.

(a) *Carriage of certain television signals.* (1) A cable television system operating in a community located in whole or in part within a major television market shall keep and permit public inspection of a record of all television signals carried pursuant to §§ 76.61 (b), (c), (d), or (e) or 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e)). Such record shall include the call letters and location of each such station whose signals are carried, the date and specific starting and ending time of such carriage, and the names of the programs scheduled to be shown. This record shall be retained for a period of 2 years.

(2) This paragraph shall be applicable only to television signals whose carriage commenced on or after March 31, 1972.

(b) *Origination cablecasts by candidates for public office.* See § 76.205(c).

(c) *Public access channels.* See § 76.251 (a)(11).

(d) *Educational access channels.* See § 76.251(a)(11).

(e) *Leased access channels.* See § 76.251(a)(11).

(f) *Equal employment opportunities.* See § 76.311(f).

§ 76.311 Equal employment opportunities.

The following provisions apply to all operators of cable television systems, both in that capacity and as licensees or permittees of cable television relay stations. Where a cable system or a headquarters office has employees whose duties are related to the operation of a cable television relay station, these employees shall be considered employees of the cable system or headquarters office employment unit for purposes of this section.

(a) *General policy.* Equal opportunity in employment shall be afforded by all operators of cable television systems to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

(b) *Equal employment opportunity program.* (1) Each cable television system shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of system employment policy and practice.

(2) Under the terms of its program, a system shall:

(i) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

(ii) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation;

(iii) Communicate the system's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;

(iv) Conduct a continuing program to exclude every form of prejudice or discrimination based upon race, color, religion, national origin, or sex from the system's personnel policies and practices and working conditions;

(v) Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to assure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility in the system.

(3) Where two or more cable television systems under common ownership or control are so interrelated in their management, operation, and utilization of employees as to constitute a single employment unit, the program shall be jointly established, maintained, and carried out by them. (Under other circumstances, the term "single employment unit" refers to an individual cable television system or to a headquarters office.)

(c) *Additional information to be furnished to the Commission*—(1) *Equal employment programs to be filed by operators of systems.* (i) The operator of each cable television system shall file a statement of its equal employment opportunity program not later than June 30, 1972, indicating specific practices to be followed in order to assure equal employment opportunity for females, Negroes, Orientals, American Indians, and Spanish-surnamed Americans in such aspects of employment practices as recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination.

(*a*) Any changes or amendment to existing programs shall be filed with the Commission on or before May 31 of each year thereafter.

(*b*) If the system (*1*) has fewer than five full-time employees, and (*2*) does not (within the meaning of paragraph (b)(3) of this section together with other cable television systems constitute a single employment unit with an aggregate total of five or more full-time employees, an equal employment opportunity program statement need not be filed for the employment unit which consists of or includes the system.

(*c*)(*1*) Where, pursuant to paragraph (b)(3) of this section, a program is jointly established by two or more cable systems with an aggregate total of 5 or more full-time employees, a multiple cable operator shall file a combined statement. (*2*) A multiple cable operator shall file a separate equal employment opportunity program statement for each headquarters office if that office has five or more full-time employees, and its work is primarily related to the operation of more than one cable television system under common ownership or control.

(*d*) If, pursuant to (*b*) of this subdivision or § 76.13(a)(8), a cable operator has been exempted from the requirement that it file an equal employment opportunity program statement, but has failed to satisfy the conditions of that exemption at any time during the first 3 months of a calendar year, it shall file the statement on or before May 31 of that year.

(2) *Contents of the equal employment program statement.* The program should reasonably address itself to such specific areas as set forth below, to the extent that they are appropriate in terms of employment unit size, location, etc.

(i) *To assure nondiscrimination in employment.* (*a*) Posting notices in the cable operator's offices and places of employment informing employees, and applicants for employment, of their equal employment opportunity rights, and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency if they believe they have been discriminated against. Where a significant percentage of employees, employment applicants, or residents of the community of a cable television system are Spanish-surnamed Americans, such notice should be posted in Spanish and English. Similar use should be made of other languages in such posted equal employment opportunity notices, where appropriate;

(*b*) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibited and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency if they believe they have been discriminated against;

(*c*) Placing employment advertisements in media that have significant circulation among minority-group people in the recruiting area;

(*d*) Recruiting through schools and colleges with significant minority-group enrollments;

(*e*) Maintaining systematic contacts with minority and human relations organizations, leaders, and spokesmen to encourage referral of qualified minority or female applicants;

(*f*) Encouraging present employees to refer minority or female applicants;

(*g*) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members and females are being sought for consideration whenever the cable operator hires.

(ii) *To assure nondiscrimination in selection and hiring.* (*a*) Instructing personally those on the staff of the system who make hiring decisions that all applicants for all jobs are to be considered without discrimination;

(*b*) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements;

(*c*) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotion.* (*a*) Instructing personally those of the system's staff who makes decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination;

(*b*) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower paid employees with respect to any of the higher paid positions, followed by assistance, counselling, and effective measures to enable employees with interest and potential to qualify themselves for such positions;

(*c*) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect;

(*d*) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (*a*) Examining rates of pay and fringe benefits for present employees with equivalent duties, and adjusting any inequities found;

(*b*) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority group or female employees.

(d) *Report of complaints filed against operators of systems.* (1) All operators of cable television systems shall submit an annual report to the Commission no later than May 31 of each year indicating whether any complaints regarding violations by the operator of equal employment provisions of Federal, State, territorial, or local law have been filed during the preceding calendar year before any body having competent jurisdiction.

(i) The report shall state with respect to each such complaint: The parties involved, the date filed, the courts or agencies before which the matter has been heard, the appropriate file number (if any), and the respective disposition or current status of the complaint.

(ii) Any cable operator who has filed such information with the Equal Employment Opportunity Commission need not do so with the Federal Communications Commission, if such previous filing is indicated.

(e) *Report of annual employment.* (1) Each operator of a cable television system with five or more full-time employees (including those whose duties are related to the operation of a cable television relay station) shall file with the Commission, on or before May 31 of each year, on FCC Form 395, an annual employment report.

(2) (i) Where pursuant to paragraph (b) (3) of this section, an equal employment opportunity program is jointly established by two or more cable television systems with an aggregate total of five or more full-time employees, a combined (single employment unit) annual employment report shall be filed.

(ii) A multiple cable operator shall file a separate annual employment report for each headquarters office if that office has five or more full-time employees, and its work is primarily related to the operation of more than one cable television system under common ownership or control.

(iii) Where, pursuant to subdivisions (i) and (ii) of this subparagraph, if more than one annual employment report is filed with respect to (*a*) cable television systems under common ownership or control, or (*b*) headquarters offices performing work related to such systems, a multiple cable operator shall also file a consolidated report, covering all system and headquarters office employees included in those reports.

(3) The data contained in each annual employment report required by subparagraphs (1) and (2) (i) and (ii) of this paragraph shall reflect the figures from any one payroll period in January, February, or March of the year during which the report is filed. The same payroll period should be used in each year's annual employment report.

(4) Annual employment reports required by this paragraph shall be filed on or before May 31 of each year.

(f) *Records available to the public*—(1) *Commission records.* A copy of every annual employment report, equal employment opportunity program, and reports on complaints regarding violation of equal employment provisions of Federal, State, territorial, or local law, and copies of all exhibits, letters, and, other documents filed as part thereof, all amendments thereto, all correspondence between the cable operator and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(2) *Records to be maintained locally for public inspection by operators*—(i) *Records to be maintained.* Each operator of a cable television system required to file annual employment reports, equal employment opportunity programs, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, territorial, or local law shall maintain, for public inspection, a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the cable operator and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference. An employer who is required to file a consolidated annual employment report shall maintain an adequately indexed consolidated equal employment opportunity files, containing copies of all the material included in the equal employment opportunity files of the headquarters offices and other employment units reported upon in his consolidated annual employment report.

(ii) *Period of retention.* The documents specified in subdivision (i) of this subparagraph shall be maintained for a period of 5 years.

(iii) *Where maintained.* The equal employment opportunity file for a system (or a single employment unit including that system) shall be maintained at the principal workplace of the employment unit, or at any accessible location (such as a public registry for documents or an attorney's office) in the principal community served by the employment unit. The headquarters office equal employment opportunity file and the consolidated equal employment opportunity file shall be maintained (*a*) respectively, at the headquarters office and the principal office of the employer, or (*b*) at any accessible place (such as a public registry for documents or an attorney's office) in the community in which the office is located. The employer shall provide reasonable accommodations at these locations for undisturbed inspection of his equal employment opportunity records by members of the public during regular business hours.

Subpart I—Forms and Reports

§ 76.401 Annual report of cable television systems.

An "Annual Report of Cable Television Systems" (FCC Form 325) shall be filed with the Commission for each cable television system, as defined in § 76.5, on or before March 1 of each year, for the preceding calendar year.

§ 76.405 Cable television annual financial report.

A "Cable Television Annual Financial Report" (FCC Form 326) shall be filed with the Commission for each cable television system, as defined in § 76.5, on or before April 1 of each year, for the preceding calendar year: *Provided, however*, That a cable television system which commenced operations prior to December 1, 1971, may report on a fiscal year basis, in which case Form 326 shall be filed annually no more than ninety (90) days after the close of the system's fiscal year.

§ 76.406 Computation of cable television annual fee.

A "Computation of Cable Television Annual Fee" (FCC Form 326-A) shall be filed with the Commission for each cable television system, as defined in § 76.5, on or before April 1 of each year, for the preceding calendar year, to accompany payment of the cable television annual fee. See §§ 1.1101 and 1.1116.

§ 76.409 Annual employment report.

An "Annual Employment Report" (FCC Form 395) shall be filed with the Commission for each cable television system, as defined in § 76.5, on or before May 31 of each year, in accordance with the provisions of § 76.311.

§ 76.411 Annual report of complaints.

An "Annual Report of Complaints" shall be filed with the Commission for each cable television system, as defined in § 76.5, on or before May 31 of each year, in accordance with the provisions of § 76.311. This report indicates whether any complaints, alleging violations by the operator of equal employment provisions of Federal, State, territorial, or local law, have been filed during the previous calendar year before any body having competent jurisdiction.

[*§ 76.411 added new eff. 8-1-73; III (73)-2*]

Subpart J—Diversification of Control

§ 76.501 Cross-ownership.

(a) No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in:

(1) A national television network (such as ABC, CBS, or NBC); or

(2) A television broadcast station whose predicted Grade B contour, computed in accordance with § 73.684 of this chapter, overlaps in whole or in part the service area of such system (i.e., the area within which the system is serving subscribers); or

(3) A television translator station licensed to the community of such system.

NOTE 1: The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2: The word "interest" as used herein includes, in the case of corporations, common officers or directors, and partial (as well as total) ownership interests represented by ownership of voting stock.

NOTE 3: In applying the provisions of paragraph (a) of this section to the stockholders of a corporation which has more than 50 stockholders:

(a) Only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

(b) Stock ownership by an investment company as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund) need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated. If an investment company directly or indirectly owns voting stock in an intermediate company which in turn directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company: *Provided, however*, That the holding of the investment company need not be considered where the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

(c) In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street name for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties), the party having the right to determine how the stock will be voted will be considered to own it for the purposes of this section.

(b) The provisions of paragraph (a) of this section are not effective until August 10, 1973, as to ownership interests proscribed herein if such interests were in existence on or before July 1, 1970 (e.g., if a franchise were in existence on or before July 1, 1970): *Provided, however*, That the provisions of paragraph (a) of this section are effective on August 10, 1970, as to such interests acquired after July 1, 1970.

Subpart K—Technical Standards

§ 76.601 Performance tests.

(a) The operator of each cable television system shall be responsible for insuring that each such system is designed, installed, and operated in a manner that fully complies with the provisions of this subpart. Each system operator shall be prepared to show, on request by an authorized representative of the Commission, that the system does, in fact, comply with the rules.

(b) The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers and the station or stations whose signals are delivered on each Class I cable television channel, and shall specify for each subscriber the minimum visual signal level it maintains on each Class I cable television channel under normal operating conditions.

(c) The operator of each cable television system shall conduct complete performance tests of that system at least once each calendar year (at intervals not to exceed 14 months) and shall maintain the resulting test data on file at the system's local office for at least five (5) years. It shall be made available for inspection by the Commission on request. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in § 76.605. The tests shall be made on each Class I cable television channel specified pursuant to paragraph (b) of this section, and shall include measurements made at no less than three widely separated points in the system, at least one of which is representative of terminals most distant from the system input in terms of cable distance. The measurements may be taken at convenient monitoring points in the cable network: *Provided*, That data shall be included to relate the measured performance to the system performance as would be viewed from a nearby subscriber terminal. A description of instruments and procedure and a statement of the qualifications of the person performing the tests shall be included.

(d) Successful completion of the performance tests required by paragraph (c) of this section does not relieve the system of the obligation to comply with all pertinent technical standards at all subscriber terminals. Additional tests, repeat tests, or tests involving specified subscriber terminals may be required by the Commission in order to secure compliance with the technical standards.

(e) All of the provisions of this section shall become effective March 31, 1972.

§ 76.605 Technical standards.

(a) The following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched termination, and to each of the Class I cable television channels in the system:

(1) The frequency boundaries of cable television channels delivered to subscriber terminals shall conform to those set forth in § 73.603(a) of this chapter: *Provided, however*, That on special application including an adequate showing of public interest, other channel arrangements may be approved.

(2) The frequency of the visual carrier shall be maintained 1.25 MHz±25 kHz above the lower boundary of the cable television channel, except that, in those systems that supply subscribers with a converter in order to facilitate delivery of cable television channels, the frequency of the visual carrier at the output of each such converter shall be maintained 1.25 MHz±250 kHz above the lower frequency boundary of the cable television channel.

(3) The frequency of the aural carrier shall be 4.5 MHz±1 kHz above the frequency of the visual carrier.

(4) The visual signal level, across a terminating impedance which correctly matches the internal impedance of the

cable system as viewed from the subscriber terminals, shall be not less than the following appropriate value:

Internal impedance:
75 ohms.
300 ohms.
Visual signal level:
1 millivolt.
2 millivolts.

(At other impedance values, the minimum visual signal level shall be $\sqrt{0.0133 Z}$ millivolts, where Z is the appropriate impedance value.)

(5) The visual signal level on each channel shall not vary more than 12 decibels within any 24-hour period and shall be maintained within:

(i) 3 decibels of the visual signal level of any visual carrier within 6 MHz nominal frequency separation, and

(ii) 12 decibels of the visual signal level on any other channel, and

(iii) A maximum level such that signal degradation due to overload in the subscriber's receiver does not occur.

(6) The rms voltage of the aural signal shall be maintained between 13 and 17 decibels below the associated visual signal level.

(7) The peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the system, or by inadequate low frequency response, shall not exceed 5 percent of the visual signal level.

(8) The channel frequency response shall be within a range of ±2 decibels for all frequencies within −1 MHz and +4 MHz of the visual carrier frequency.

(9) The ratio of visual signal level to system noise, and of visual signal level to any undesired cochannel television signal operating on proper offset assignment, shall be not less than 36 decibels. This requirement is applicable to:

(i) Each signal which is delivered by a cable television system to subscribers within the predicted Grade B contour for that signal, or

(ii) Each signal which is first picked up within its predicted Grade B contour.

(10) The ratio of visual signal level to the rms amplitude of any coherent disturbances such as intermodulation products or discrete-frequency interfering signals not operating on proper offset assignments shall not be less than 46 decibels.

(11) The terminal isolation provided each subscriber shall be not less than 18 decibels, but in any event, shall be sufficient to prevent reflections caused by open-circuited or short-circuited subscriber terminals from producing visible picture impairments at any other subscriber terminal.

(12) As an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the class of cable television channel involved, radiation from a cable television system shall be measured in accordance with procedures outlined in § 76.609(h), and shall be limited as follows:

Frequencies	Radiation limit (microvolts/meter)	Distance (feet)
Up to and including 54 MHz	15	100
Over 54 up to and including 216 MHz	20	10
Over 216 MHz	15	100

(b) Cable television systems distributing signals by using multiple cable techniques or specialized receiving devices, and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraph (a) of this section, may be permitted to operate provided that an adequate showing is made which establishes that the public interest is benefited. In such instances, the Commission may prescribe special technical requirements to ensure that subscribers to such systems are provided with a good quality of service.

(e) Paragraph (a)(12) of this section shall become effective March 31, 1972. All other provisions of this section shall become effective in accordance with the following schedule:

	Effective date
Cable television systems in operation prior to March 31, 1972	Mar. 31, 1977
Cable television systems commencing operations on or after March 31, 1972	Mar. 31, 1972

§ 76.609 Measurements.

(a) Measurements made to demonstrate conformity with the performance requirements set forth in §§ 76.601 and 76.605 shall be made under conditions which reflect system performance during normal operations, including the effect of any microwave relay operated in the Cable Television Relay (CAR) Service intervening between pickup antenna and the cable distribution network. Amplifiers shall be operated at normal gains, either by the insertion of appropriate signals or by manual adjustment. Special signs inserted in a cable television channel for measurement purposes should be operated at levels approximating those used for normal operation. Pilot tones, auxiliary or substitute signals, and nontelevision signals normally carried on the cable television system should be operated at normal levels to the extent possible. Some exemplary, but not mandatory, measurement procedures are set forth in this section.

(b) When it may be necessary to remove the television signal normally carried on a cable television channel in order to facilitate a performance measurement, it will be permissible to disconnect the antenna which serves the channel under measurement and to substitute therefor a matching resistance termination. Other antennas and inputs should remain connected and normal signal levels should be maintained on other channels.

(c) As may be necessary to ensure satisfactory service to a subscriber, the Commission may require additional tests to demonstrate system performance or may specify the use of different test procedures.

(d) The frequency response of a cable television channel may be determined by one of the following methods, as appropriate:

(1) By using a swept frequency or a manually variable signal generator at the sending end and a calibrated attenuator and frequency-selective voltmeter at the subscriber terminal; or

(2) By using a multiburst generator and modulator at the sending end and a demodulator and oscilloscope display at the subscriber terminal.

(e) System noise may be measured using a frequency-selective voltmeter (field strength meter) which has been suitably calibrated to indicate rms noise or average power level and which has a known bandwidth. With the system operating at normal level and with a properly matched resistive termination substituted for the antenna, noise power indications at the subscriber terminal are taken in successive increments of frequency equal to the bandwidth of the frequency-selective voltmeter, summing the power indications to obtain the total noise power present over a 4 MHz band centered within the cable television channel. If it is established that the noise level is constant within this bandwidth, a single measurement may be taken which is corrected by an appropriate factor representing the ratio of 4 MHz to the noise bandwidth of the frequency-selective voltmeter. If an amplifier is inserted between the frequency-selective voltmeter and the subscriber terminal in order to facilitate this measurement, it should have a bandwidth of at least 4 MHz and appropriate corrections must be made to account for its gain and noise figure. Alternatively, measurements made in accordance with the NCTA standard on noise measurement (NCTA Standard 005-0669) may be employed.

(f) The amplitude of discrete frequency interfering signals within a cable television channel may be determined with either a spectrum analyzer or with a frequency-selective voltmeter (field strength meter), which instruments have been calibrated for adequate accuracy. If calibration accuracy is in doubt, measurements may be referenced to a calibrated signal generator, or a calibrated variable attenuator, substituted at the point of measurement. If an amplifier is used between the subscriber terminal and the measuring instrument, appropriate corrections must be made to account for its gain.

(g) The terminal isolation between any two terminals in the system may be measured by applying a signal of known amplitude to one and measuring the amplitude of that signal at the other terminal. The frequency of the signal should be close to the mid-frequency of the channel being tested.

(h) Measurements to determine the field strength of radio frequency energy radiated by cable television systems shall be made in accordance with standard engineering procedures. Measurements made on frequencies above 25 MHz shall include the following:

(1) A field strength meter of adequate accuracy using a horizontal dipole antenna shall be employed.

(2) Field strength shall be expressed in terms of the rms value of synchronizing peak for each cable television channel for which radiation can be measured.

(3) The dipole antenna shall be placed 10 feet above the ground and positioned directly below the system components. Where such placement results in a separation of less than 10 feet between the center of the dipole antenna and the system components, the dipole shall be repositioned to provide a separation of 10 feet.

(4) The horizontal dipole antenna shall be rotated about a vertical axis and the maximum meter reading shall be used.

(5) Measurements shall be made where other conductors are 10 or more feet away from the measuring antenna.

§ 76.613 Interference from a cable television system.

In the event that the operation of a cable television system causes harmful interference to reception of authorized radio stations, the operator of the system shall immediately take whatever steps are necessary to remedy the interference.

§ 76.617 Responsibility for receiver-generated interference.

Interference generated by a radio or television receiver shall be the responsibility of the receiver operator in accordance with the provisions of Part 15, Subpart C, of this chapter: *Provided, however,* That the operator of a cable television system to which the receiver is connected shall be responsible for the suppression of receiver-generated interference that is distributed by the system when the interfering signals are introduced into the system at the receiver.

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[FCC 74-384; 11288; Docket Nos. 20018-20024]

CABLE TELEVISION

Proposed Clarification of Rules

In the matter of:

Amendment of Part 76 of the Commission's rules and regulations relative to the advisability of Federal preemption of cable television technical standards or the imposition of a Moratorium on non-Federal standards (Docket No. 20018).

Amendment of Part 76 of the Commission's rules and regulations relative to an inquiry on the need for additional rules in the area of public proceedings and qualifications for franchisees, § 76.31(a)(1) (Docket No. 20019).

Amendment of Part 76 of the Commission's rules and regulations relative to requiring additional assurances on the establishment of line extension provisions in franchises—§ 76.31(a) (1), (2) (Docket No. 20020).

Amendment of Part 76 of the Commission's rules and regulations relative to amending existing franchise duration rules—§ 76.31(a)(3) to lengthen maximum term and impose a minimum term (Docket No. 20021).

Amendment of Part 76 of the Commission's rules and regulations relative to an inquiry on the advisability of adding specific rules to § 76.31(a)(3) regarding franchise expiration, cancellation and continuation of service (Docket No. 20022).

Amendment of Part 76 of the Commission's rules and regulations relative to an inquiry on the need for new regulations in the area of transfers of control of cable television franchises (Docket No. 20023).

Amendment of Part 76 of the Commission's rules and regulations relative to a specific requirement in § 76.31 (a)(5) that the local official responsible for subscriber complaints be identified in the franchise (Docket No. 20024).

I. INTRODUCTION

1. On February 2, 1972, the Commission adopted the Cable Television Report and Order (37 FR 3252, 36 FCC 2d 143). Reconsideration of Report and Order (37 FR 13848, 36 FCC 2d 326). In that report we adopted a comprehensive set of new rules for most aspects of cable television operation. The report was separated into four main categories:

a. Television broadcast signal carriage;

b. Access to and use of non-broadcast cable channels, including minimum channel capacity;

c. Technical standards;

d. The appropriate division of regulatory jurisdiction between the Federal and state-local levels of government.

Particularly as to the last three categories, we stated repeatedly that new regulatory concepts and procedures were being employed and that many of these rules were experimental in nature and would be clarified, modified, or changed as the situation warranted. The rules were an attempt to create a flexible regulatory framework that took into account the constant and necessary flux inherent in any emerging industry such as cable television. The time has come, after two years of operational experience, to make some modifications and clarifications of our rules to keep pace with the changing picture presented by cable's development and to resolve whatever ambiguities may exist.

2. Our interest in the development of cable television is not passive. While the bedrock of our regulatory authority over cable clearly derives from its use of broadcast signals (see "U.S. v. Southwestern Cable Co.", 392 U.S. 157, "Midwest Video v. U.S.", 406 U.S. 649), this is not where our concern ends. This Commission is primarily responsible for the development and maintenance of a nationwide communication system (Communications Act of 1934 as amended, sec. 1). Cable television is undeniably part of that system and presumably will become a major and integrally vital element of what many see as the broadband communications system of the future. We are concerned that we do not, in our efforts to mold the communications structure of the future, unduly hamper the developing structure of today. Over-expectation and anticipatory regulation can be just as damaging, if not more damaging, than no regulation at all.

3. The need for flexibility in our rules and a willingness to modify them as needed is best illustrated by the technological changes that have occurred within the past two years. In this relatively short time span, we have seen the development of cable television converters that have nearly doubled the maximum channel capacity. Satellite transmission to cable systems has become a technical reality. Two-way subscriber response systems have moved from the drawing boards to test installations. Any regulations of cable television must be designed with enough flexibility to allow for these changes.

4. Two years of experience in administering our rules has also given us the opportunity to pinpoint the weaknesses, identify the areas creating undue confusion or misinterpretation, and catalogue our own mistakes. This process of refining our rules was significantly aided by the reports submitted to us by the special Federal/State-Local Advisory Committee [FSLAC] that was established for this purpose when we adopted the Cable Television Report and Order 37 FR 3252 at 3277, Paragraph 188. That Committee spent more than 250 hours in public meetings debating many of the issues we will deal with here. In many cases, the clarification we are providing today is in response to the confusion or need for more specificity highlighted by those meetings. The final report of the FSLAC Steering Committee[1] has been thoroughly reviewed by this Commission prior to the preparation of this document. The review included a special meeting held between the Steering Committee and the full Commission in public session on December 11, 1973. The actions we are taking today are not intended to be dispositive of the FSLAC report. That report did provide valuable guidance, however, in the prepartion of this document. We expect to continue work that has already been initiated relating to the FSLAC recommendations, and future actions based on the FSLAC report will be so noted.

5. We are issuing this clarification and suggesting modifications only after a great deal of careful study and two years of experience with the present rules. Many interrelated rule making proceedings and requests for waivers, special relief, or declaratory rulings have been received during that time. Some of those pending requests will be either resolved or modified by our action today.

6. This document is intended to both clarify our existing rules and policies and at the same time open new inquiries where appropriate. In areas where a new rule is proposed or the change suggested goes beyond clarification or non-substantive modification, we have so noted it by specifically inviting comments and assigning a docket number to the issue. As in all other notices of proposed rule making and inquiry, comments are invited from all interested parties. We emphasize in this regard, however, that we intend to act expeditiously on these matters. While many of the issues considered today cross the subject matter categories employed in the Cable Television Report and Order, we will attempt to deal with them within that framework to maintain continuity.

II. TELEVISION BROADCAST SIGNAL CARRIAGE

7. We do not intend to suggest any modifications in our signal carriage rules at this time. Several rule makings are outstanding (i.e., non-duplication RM-2275, Docket No. 19995) and will be dealt with in due course. However, some general comments on signal carriage, particularly as it relates to other issues in this report, are appropriate.

SIGNAL CARRIAGE JURISDICTION

8. The fact that this Commission has pre-empted jurisdiction of any and all signal carriage regulation is unquestioned. Nonetheless, occasionally we receive applications for certificates of compliance which enclose franchises that attempt to delineate the signals to be carried by the franchisee cable operator. Franchising authorities do not have any jurisdiction or authority relating to signal carriage. While the franchiser might want to include a provision requiring the operator to carry all signals allowable under our rules, that is

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[1] The final report of the Steering Committee of the FCC Cable Television Advisory Committee on Federal/State-Local Regulatory Relationships is available for $6.50 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151, Order No. PB [illegible] 147.

as far as the franchiser can or should go. In fact, because of the complexities of our signal carriage rules, even that statement in a franchise could be troublesome. We have been faced in some instances with the unfortunate situation where, because the franchise included signal carriage requirements inconsistent with our rules, we were forced to delay the grant of a certificate awaiting amendment of the franchise. In other cases, where the franchise included a severability clause, we were able to grant the certificate. Even in those instances, it would have been preferable had the franchising authority omitted the signal carriage clauses altogether.

LEAPFROGGING

9. We note that a further suggestion on signal carriage was made by the Federal/State-Local Advisory Committee final report submitted by its Steering Committee (hereinafter referred to as the FSLAC Report). The report designates over-the-air signal carriage as Issue #19 and states:

> Signal carriage requirements are and should remain in exclusively federal jurisdiction. Additionally, the Committee recommends that when there is a joint petition by the cable operator and the franchising authority for a waiver of the leapfrogging rules based on a showing of community interest, the Commission should give additional weight to such petitions in considering the waiver request.

We agree with this position and have adopted it in some cases presented to us. (See Commission on Cable Television of the State of New York, 43 FCC 2d 836, FCC 73-1148, CSR-342). We intend to continue investigating such waiver requests on an *ad hoc* basis, and, as noted in the above-cited case, as we gain more experience in this area, we may consider appropriate amendments of our leapfrogging rules (§ 76.59, 61 et seq.) to accommodate the carriage of in-state signals in some or all situations.

SIGNAL DELETION

10. Several procedural changes have also been suggested in this area, particularly as they relate to applications for certificates of compliance. In § 76.13 (a) (1) and (b)(1), we require indication of the signals an operator is authorized to carry as well as specification of the signals requested to be added to that authorization. In many instances, this has led to situations where there are clearly many more signals authorized than could technically be carried or are desired. We intend to amend this rule to require that the applicant indicate, when applicable, what signals should be deleted from the authorization as well as added.

11. We recognize that, in many cases, the reason there are more signals authorized than can technically be carried is that some of those signals are only carried in part. This is consistent with § 76.55(b) which simply requires that a particular program may not be altered or deleted in part. The carriage of signals not required by our rules is left to the discretion of the cable operator. In those cases, however, where signals are going to be dropped completely, we want to be apprised. A procedural change in § 76.55 (b), should be sufficient to accomplish that result.[8]

III. ACCESS TO AND USE OF NON-BROADCAST CHANNELS

12. A comprehensive and innovative set of new rules regarding cable television access channels was adopted in our 1972 regulations. In the Report and Order in Docket No. 18396 et al., we clearly stated the basis and rationale for these new rules:

> Broadcast signals are being used as a basic component in the establishment of cable systems, and, it is therefore appropriate that the fundamental goals of a national communications structure be furthered by cable—the opening of new outlets for local expression, the promotion of diversity in television programming, the advancement of educational and instructional television and increased informational services of local government. (Para. 121.)

13. We reiterated this over-all concern for the development of cable television in the reconsideration of the Cable Television Report and Order, 37 FR 13848, 36 FCC 2d 326:

> * * * Cable Television as it grows, must be integrated into a nationwide communications structure. Were we to permit an uncontrolled development of cable we would be breaking our obligations under the Communications Act of 1934, as amended. This Commission was created, amid the chaotic development in the field of radio, * * * to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service. * * * (Section 1, 47 USC 151). As an integral part of interstate broadcast transmission, cable operators "cannot have the economic benefits of such carriage as they perform and be free of the necessary and pervasive jurisdiction of the Commission" (*General Telephone of California v. FCC*, 413 F 2d 390, 401 (C.A.D.C.) (1969), Cert. denied, 396 U.S. 888. Thus, we conceive it to be our obligation to consider the actual and potential services of cable television and create a Federal policy which insures that these services can be distributed equitably, on a nationwide basis as merely one link in our communications systems * * *. (Para. 74.)

From watching the development of our access program, we are now, more than ever, convinced of the propriety and need for such a program. Access is still in its infancy and it has a long, hard struggle ahead before it becomes an accepted part of the communication process in this country. We knew this would be the case when we instituted the rules noting:

> * * * We recognize that in any matter involving future projections, there are necessarily certain imponderables. These access rules constitute not a complete body of detailed regulations but a basic framework within which we may measure cable's technological promise, assess its role in our nationwide scheme of communications, and learn how to adapt its potential for energetic growth to serve the public. (Para. 117.)

14. We believe that the access channels we have required will eventually serve the public in many ways. However, we are also aware that the requirement for providing these channels imposes a burden on the cable operator, particularly on the small, older systems now required to provide access channels and the new large systems that provide services to many small communities. We also note that many franchisors outside the major markets are now including access requirements in their renewal proceedings.[9]

ACCESS ON CONGLOMERATE SYSTEMS

15. For the most part, our access channel requirements do not appear to be overly burdensome. To date we find no reason to alter the rule requiring at least four access channels (public, educational, government, and leased). The application of that regulation, however, must stand on a flexible and reasonable basis. One issue that is being raised in this regard, and which we wish to clarify here, is the effect of the rule in multi-jurisdictional systems. In the Cable Television Report and Order, we stated that "* * * To the extent that the access requirements pose problems for systems operating in small communities in major markets, such systems are free to meet their obligations through joint building and related programs * * *." Our intent here is to make clear that we have and will continue to entertain petitions and special showings to allow the joint use of access channels and facilities. (e.g., Century Cable Communications, Inc., CAC-1914, FCC 74-63.) There is no need, as we see it, to require a system providing service to a large number of small suburban communities to have a separate public access channel for each one of those communities when in reality none of those access channels is or would likely be fully utilized. In fact, in such a situation, it might be better, in terms of fostering public access channel use, to have one or two channels significantly used and "lit" rather than a multiplicity of channels "dark" for a major portion of the time because of scarcity of programming. On the other hand, we want again to put all cable operators on notice that although we may grant waivers of immediate provisions for access channels we still expect and will require operators to have sufficient channel capacity to meet any reasonable demand.

CHANNEL CAPACITY

16. Questions arising out of our channel capacity rules (§ 76.251(a)(1)) also indicate that clarification is necessary. Our efforts to establish minimum/maximum channel capacity requirements were based on a study of the existing technology at the time of the adoption of

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[8] Formal action to effect this procedural amendment will be announced in a separate Commission document.

[9] We allow the addition of such requirements in smaller market franchises so long as they are consistent with and no greater than our rules for the major markets. See Cable Television Report and Order, 37 FR 3252, at 3272, Para. 148, § 76.251(b).

these rules. We were attempting to indicate to the industry that they must have sufficient channel capacity to meet foreseeable future demands, and, at the same time, we were cautioning franchising authorities that requiring excessive technological capacity was detrimental to our overall program. A "20-channel" system, in essence, requires construction that is sufficient for any currently foreseeable demand; that is, single cable with converter, dual cable, or eventually dual cable with converter. We continue to be of the opinion that this is sufficient. We note that some communities have contemplated requiring massive extra bandwidth provisions, such as operational capacity for 120 video channels. The present need or value of such excess has yet to be proved. Apparently the theory is that many discrete groups could thereby each have their own separate access channel. However, it appears from current experience that, for now, the more successful access experiments are those where a cooperative effort is made by many groups to fill an access channel. The advantage of such cooperation is that it results in the channel's use for a substantial portion of the day so that viewers become accustomed to seeing programming originate on the channel as a normal course of events rather than as an occasional special event. The provision for special access channels for various discrete groups may, we fear, work to their detriment in that rather than pooling their efforts to program one channel, each will go its separate way and ultimately none may succeed. We envisioned and continue to promote the concept of pooled facilities. For instance, the school systems in a community should be able to cooperate to program an educational channel. Their time and resources would be better spent and more effectively utilized by joint effort than by each demanding his own channel and then not being able to fully utilize it.

FACILITY REQUIREMENTS

17. Our access program, and the burden it imposes on the cable operator, has been carefully weighed and we consider it to be both reasonable and in the public interest. We are requiring the provision of free access channels and some facilities to utilize them. We envision this access program as an opportunity for a multiplicity of persons and groups to become active in the use of the communications media for the first time. For access channels to work the individuals and groups being offered access must design their own programs, develop their own resources, and foster the use and value of the channels. This is not accomplished by demanding that the cable operator, having provided the free channels, should now also pay to program the channels. An unfortunate misconception seems to have developed because of some over-expectations at the prospect of free access channels. Demands are being made not only for excessive amounts of free equipment but also free programming and engineering personnel to man the equipment. Cable subscribers are being asked to subsidize the local school system, government, and access groups. This was not our intent and may, in fact, hamper our efforts at fostering cable technology on a nationwide scale. Too often these extra equipment and personnel demands become franchise bargaining chips rather than serious community access efforts. We are very hopeful that our access experiment will work. We recognize the difficulties inherent in developing access programming and will have more to say on the subject later. We do not think, however, that simply putting more demands on the cable operator will make public access a success. Access will only work, we suspect, when the rest of the community assumes its responsibility to use the opportunity it has been provided.

18. In order to clarify the meaning and intent of our access requirements, we will review them here as they appear in our rules.

19. Sections 76.251(a) (1) and (2), as noted earlier, are meant to assure that any new cable system being built is designed with sufficient capacity for any foreseeable future demand. We think these rules adequately meet that goal and see no need to modify them. It should be noted, however, that we recognize that in some cases strict application of these rules would not be reasonable. This is particularly true where, because an older system is already carrying a great number of grandfathered signals, or a new system must carry a large number of "local" stations, a system would have to have an inordinately large channel capacity in order to double its bandwidth pursuant to § 76.251(a)(2). We will continue to entertain waiver requests in such circumstances. This does not mean, however, that a waiver will be granted to allow a system to continue operating without any extra capacity. All systems covered by our rules will have to have sufficient capacity to meet their access obligations and have some capacity left over for future use. Waivers will be granted in instances where the extra capacity required by the rule would appear to have no foreseeable relationship to future demand.

BANDWIDTH ACTIVATION REQUIREMENTS

20. Some questions have been raised as to when the extra bandwidth must be activated. Some systems claim 20- or 24- or 26-channel capacity by having the capability of installing converters on a single trunk system. We have occasionally been asked when that converter must be installed. Our application of this rule is purely pragmatic. The rule requires bandwidth "* * * available for immediate or potential use * * *." No system will receive a certificate of compliance if its activated capacity is insufficient to meet our access requirements (including at least one channel available for leased use). So long as the system always has that much immediately available and usable capacity, it will be considered in compliance with our rules, assuming, of course, that the remaining capacity can be activated without significant rebuilding or delay.

CHANNEL ACTIVATION

21. In this regard, we believe it is necessary to clarify the language of the channel expansion formula in § 76.251 (a)(8) of the rules. This Section requires that a new designated access channel be made available when the first channel is in use for a specified period of time. The "time trigger" (channel use for 80 percent of the time during any consecutive three-hour period for six consecutive weeks) applies to each channel individually. For instance, if the public access channel is filled to that degree, a new public access channel must be designated upon request regardless of the amount of use being made of the other access channels. Additional special designated channels need not be provided free of charge. Reasonable charges consistent with our access policy can be assessed so long as the free channel in each category remains available on a non-discriminatory basis.

TWO-WAY

22. In § 76.251(a)(3), we require that the technical capacity for non-voice return communication be designed into any new cable facility affected by the rule. We fully explain the rationale for this requirement in Paras. 128, and 129 of the Report and Order. This rule does not require that the cable system be operational in the return mode. Once again, as in the case of channel capacity, we want to make sure that new systems being built will be able to meet all present and foreseeable future service obligations without the need for significant rebuilding or delay. We are aware that at present there are few, if any, proven, economically viable uses for two-way cable communications. To require operational two-way systems at this time, therefore, might impose unreasonable costs on the cable operator. In some cases, we have noted that franchising authorities are requiring the immediate operational installation of two-way facilities. Before a certificate of compliance is granted in any such case, we require a showing of the intended use of such facilities and a showing that such a requirement will not adversely affect the system's viability or otherwise inhibit it from complying with the federal goal of a nationwide cable communications grid.

PRIVACY

23. Many questions and fears have developed about the use of two-way equipment. In this regard, the statement made in the FSLAC Report is most appropriate:

> The issue of privacy and its relationship to the legitimate uses or potential uses of cable television is a highly emotional one. The fears of many, that cable television will bring with it "1984-type" surveillance and monitoring is in the public mind regardless of the technological factors that argue against such uses. These fears must be met. At the moment, the potential for over-reaction to such fears and the inclusion of impractical and prohibitive allegedly protective requirements in franchises prompts the Committee to suggest that: Protection of subscriber privacy may take the form of regulation and judicially enforceable sanctions, and may be ad-

dressed at federal, state or local levels. The Committee believes that the principal problem area relates to the individualized monitoring of subscriber viewing habits, without explicit advance consent, and the disclosure of such information. Restraints on such activity should not impede systemwide, non-individually addressed "sweeps," or the operator's acquisition of information for purposes of verifying system integrity, controlling return path transmissions, or billing for pay services.

24. We agree fully with the Committee on this point. Without denigrating the well-intentioned pleas for caution voiced by many groups, we feel that there has been much misinformed over-reaction to this problem. Some franchises have included provisions to guard against monitoring that are not only impractical but often impossible to comply with. Other provisions have been included which purport to prohibit activities by the cable operator, such as generalized performance "sweeps," which are necessary to assure system integrity. Equipment to "monitor monitoring" has been required that does not even exist. It should be sufficient at this time to caution franchising authorities against excessive regulation in this regard. We are watching this situation carefully and will take any action necessary to protect the privacy of cable subscribers. Such action may take the form of added regulations at the agency level to assure privacy or possibly even Congressional action.[4] All governmental jurisdictions should be on guard to guarantee that the right of privacy is maintained. As we noted when we instituted the two-way requirement, any use of two-way communications, any activation of return service must always be at the subscriber's option (Para. 129).

FREE CHANNELS

25. In § 76.251(a) (4), (5), and (6), we require the provision of public, educational, and governmental access channels. We continue to view these channels as experimental. After only two years of experience with these rules, it would be premature to characterize the experiment as a success or failure. We would prefer more experience before significantly changing these requirements. Once again, however, it appears necessary to reiterate that until we can gain more experience with the experiment already under way, we are reluctant to allow major alterations by individual franchising authorities without good cause. Unquestionably, in some areas, because of particular local needs and facilities, different access programs might be useful. In those cases, we will entertain petitions for waiver of our general rule. To date, however, we have received several applications for extra access channels and equipment on the "more is better" concept rather than on any actual need or plan for use. As we have already noted, "more" may not be better, and, indeed, may be worse. Any proposals in franchises requiring access channels or facilities in excess of what is required in our rules must be shown to be reasonable and necessary for a planned local program of use. A showing in the application for a certificate of compliance must be made that indicates what the nature of the added requirement is, how it will be implemented, who will pay for the extra services and equipment, how much they will cost, and how the costs, if borne by the cable operator, will add to rather than detract from his overall service offering.

ACCESS CHANNEL REGULATION

26. As to the actual plans for use of the access channels we have required, we want to emphasize that there is a great deal of flexibility. Different communities, operators, and access groups will find various ways of utilising their channels most effectively. We expect that many variations will be tried. It would be a mistake for any regulatory authority or board to attempt, at this formative stage, to delimit too particularly how the access channels should work.

27. Our effort at creating a public access channel was meant to give the maximum access possible to local groups. It is for this reason that we initially described the channel as one that should be available on a "first-come, first-served non-discriminatory" basis. The best example of why we say that it is premature to establish firm rules for the access channel is the myriad number of questions we have been asked arising from that statement. By attempting to answer some of them here, we hope to clarify the policy considerations behind our access rules.

28. Some have questioned whether our rules would allow a particular person or group to reserve access channel time on a long-term basis, e.g., every Thursday night from 8 to 9 p.m. We did not intend that our rule would prohibit an access programmer from developing a viewership at a particular time by consistent programming. Therefore, this type of reserved time would be consistent with our rules. However, we also want to assure that all desirable time slots are not "frozen" and thereby monopolized or not available to the occasional programmer. Some balance is necessary. We are allowing cable operators to design their access channel rules to accommodate both interests and shall remain sensitive to the possibility that abuses might develop.

EDUCATIONAL ACCESS

29. Our educational access channel rules were designed to promote the use of that channel by educational authorities in the community. Much was claimed in the original dockets which led to the adoption of this rule about the potential for educational channels on cable. Little has developed. In retrospect, it appears that our limitation of one free educational access channel was wise. Designating vast channel capacity for education only to see it lie fallow serves no purpose. Two questions have repeatedly been raised about our educational access rules: (1) Who qualifies as an "educational authority" to use the channel, and (2) what extra equipment, assistance, etc., can be demanded or offered for educators in a franchise agreement?

30. Our concept of "educational authority" was not meant to restrict the use of this channel to the local public school board. Any school, college, or university, public or private, formal or informal, should have the opportunity to air programming on this channel. The one exception to this interpretation would be commercial educational enterprises (computer schools, beauty schools, etc.) that would in essence be using the channel for advertising which we have specifically disallowed on the educational access channel. Any bona fide educational interest should have access to the educational channel. We envision a working educational channel as one where the programmers work out a reasonable bility to program this channel nor should cable operator to utilize this opportunity offered to them. It might be possible, for instance, for a high school and a college to produce complementary instructional programming of benefit to both. It is not the cable operator's responsibility to program this channel nor should he be expected to.

31. The problem of increasing demands in franchises for extra channels, money, equipment, personnel, etc., will be dealt with in section V of this document.

LEASED CHANNELS

32. It is too early to discern any trends regarding our leased access channel rules (§ 76.251(a)(7)). It remains our intent to keep these channels as free as possible from any regulation that might restrict or artificially alter their growth. This is particularly true in the area of rate regulation. We have pre-empted this area with the explicit purpose of allowing the market place to function freely. We note that many authorities are already talking about regulating leased channel rates and/or rates for pay cable services. It is premature to regulate along these lines. Such regulation might destroy any chance for this emerging communications service by stifling competition, setting incorrect rates, and establishing an atmosphere which deters experimentation innovation, or speculation. We have pre-empted this area to avoid those pitfalls. It is unclear how a regulatory body could now establish reasonable rates for services that are untested, unproven, and which have not even established a consistent record as to costs, expenses, subscription, etc.

33. As we noted, in the Cable Television Report and Order, Para. 130, 131, dual jurisdictional regulation of access channels would cause great confusion and might inhibit their growth on a nationwide basis. Different regulation, rate structures, etc., for instance, on channels where a par program or per channel charge is made might unduly

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[4] We note that the recently released report on Cable Television by the President's Cabinet Committee on Cable Communications also suggests that the guarantee of privacy be one of our principal concerns.

hamper the obviously interstate effort involved by cable operators and programmers to secure a large enough audience to make this new communications medium a viable economic success. We cannot allow such a multiplicity of regulation to detract from our national program.

34. While we have decided to prohibit non-federal rate regulation of leased channel uses or users at this time and have further announced our intention of refraining from imposing any federal regulations now, some guidelines regarding leased channel operation might be helpful. We recognize that many of the early efforts at rate regulation were motivated by concerns over potential abuse of the cable operator's position. We noted such a potential in the 1972 rules (Para. 126). To date there has been little evidence that the cable operators are hoarding capacity for their own uses or are setting preferential or prohibitive rates to maintain a monopoly position. Should such a situation develop, we will, of course, stop it. It is in the cable operator's best interest for this not to happen. All parties must be given access to the leased channels at rates not designed to prohibit entry. This is especially true in the area of pay cable. Evidence that cable operators are restricting entry would obviously lead to demands that cable be re-defined as a common carrier. We do not think this would be a good idea at this time. In fact, it would probably be detrimental.[5] But abuse, particularly of leased channel access, will surely result in far more restrictive regulation.

35. Some cable operators and franchising authorities have suggested a program whereby preferential rates for leased public, educational, and governmental channels are offered to non-commercial users. Thus, when the free channels are filled, or when, for instance, an educational user wants to put specialized programming on a separate educational channel, he could lease a channel at a lower rate than would be available to a commercial user. This concept appears sound, and we do not discourage cable operators from experimenting with such preferential rate structures. Specific franchise requirements or controls of this nature, however, remain pre-empted. We favor a market place experimentation in this area for now.

IV. TECHNICAL STANDARDS

36. We repeatedly stated in the original cable rules and in the reconsideration of them that our technical standards were only a first step in what we expected would be a long process of refining the technical parameters of cable television. In the Reconsideration of Cable Television Report and Order, we indicated that franchising authorities could also promulgate technical standards. That decision has now been brought into question.

37. The FSLAC report, while acknowledging an apparent problem regarding unrealistic standards being developed at state and local levels, recommends that this dual jurisdictional approach be maintained at least until the completion of the FCC Cable Television Technical Advisory Committee's (CTAC) work. However, the FSLAC report also recommends (Issue #4) that we issue cautionary advice to franchising authorities noting that our rules should suffice in a majority of cases and that any more stringent standards must be enforced locally. This recommendation also urges that we retain oversight authority to deal with any unrealistic standards that may be promulgated.

38. We recognize that this is an area of significant conflict. The experience we have already gained from CTAC's preliminary work and the confusion engendered by some of our original rules indicates that much more work needs to be done. Our technical advisory committee is making progress in this direction.[6] Most State Governors have already named liaisons with the Committee at our request so that we may coordinate as much of this activity as possible. The question now arises as to whether we should institute, at the least, a moratorium on the promulgation of non-federal technical standards until the completion of CTAC's work.

39. A petition for rule making has already been received from the National Cable Television Association regarding technical standards, pre-emption,[7] and the opinion of our own Office of Chief Engineer suggests that the multiplicity of conflicting technical standards has become a problem and might not be in the public interest. There has been considerable comment on the desirability of uniform standards and argument that the lack of such uniform standards could conceivably hamper the development of cable television because technical equipment could not be manufactured for nationwide use.

40. Understandably, the imposition of a moratorium or the complete subject matter pre-emption of technical standards are issues of considerable debate. For this reason, we invite interested parties to submit comments on the question of whether cable television technical standards should be totally preempted or a moratorium on additional non-federal technical standards should be a imposed until the completion of the technical advisory Committee's work.[8]

V. FEDERAL/STATE-LOCAL RELATIONSHIPS

41. In our 1972 rules we adopted an ambitious program of creative federalism in the area of cable television franchising. In essence, we developed an approach of dualism toward the granting of cable franchises. We recognized that the complexities and national character of cable television called for nationwide rules and guidelines. At the same time, we acknowledged that the essentially local service offered by cable television, at least in its formative stages, could best be developed through local partcipation and enforcement. Our rules attempted to blend these needs into a cohesive, cooperative program between federal and local authorities. This effort appears to have been basically successful.

42. One significant new development, however, has become a complicating factor. State governments have begun asserting a regulatory role in cable television, thus adding a third-tier to the regulatory scheme. When we adopted our rule we envisioned a system whereby federal rules and guidelines would be complemented by one other regulatory authority—the so-called "local" level of government. We did not specify cities or municipalities because we recognized that in some states the state government would serve as the "local" authority rather than some smaller political subdivision. Indeed, this was the case in 1972, since several states had already asserted state jurisdiction over cable franchising (e.g., Connecticut, Nevada, Rhode Island, and Vermont). However, at that time there were no states asserting an additional regulatory function while leaving other regulatory and franchising matters to localities. It is this latter development that concerns us. A major portion of the FSLAC report deals with this "three-tier" problem (see Part II, FSLAC Final Report). In our December meeting with the FSLAC Steering Committee this was also a prime topic of discussion. We intend, in the near future, to deal with this question specifically. For the purposes of this document, however, it should be sufficient to caution all regulatory bodies involved or considering involvement in cable television that we are concerned about the developing duplicative and burdensome overregulation of cable television.

43. The purpose of this notice of proposed rulemaking and memorandum opinion and order is to clarify and in some cases modify the existing rules. Our experience to date indicates that one of the areas most in need of clarification is our franchise standards and their relationship to the rest of our rules.

44. Once again, we think it would be easiest to review all of our franchising

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[5] This, of course, is consistent with the position we took in the Cable Television Report and Order, Para. 146. It does not mean that at some future time, once cable technology has sufficiently matured, that common carrier status would necessarily still be inappropriate. We note that the same position has now been taken by the President's Cabinet Committee on Cable Communications.

[6] The Committee expects to complete the first phase of its work by late this year.

[7] RM-2196 *Petition for Rule Making To Standardize Technical Standards* filed May 23, 1973, by the National Cable Television Association.

[8] Comments filed in response to this *Notice of Proposed Rule Making* should be referred to Docket No. 20018.

and followed. It should be noted that, as has already happened in several cases, not following to the letter a municipality's own rules can cause considerable delay and acrimony.

c. Cities that have initially established an ordinance on cable television and have approved it without looking first to who will receive the franchise have found this to be a beneficial procedure avoiding many of the pitfalls involved in an unrealistic bidding contest on a combined franchise and ordinance. Such bidding contests, with cable operators and city officials offering or demanding provisions unrelated to the actual needs of the city or viable operation of the system, are harmful to all parties.

d. An open, written bid proposal by all applicants is helpful but care should be taken lest this become another for of bidding contest. It should be noted by cities and franchise alike that whenever a franchise application is incorporated by reference in a franchise it must be made part of the application for certificate of compliance from us. It will be reviewed for compliance with our rules in such a situation.

55. The process of soliciting bids for a cable television franchise often leads to excesses in both demands and offers. As we just noted, any bid application incorporated by reference in the franchise will be reviewed for consistency with the cable television regulations we have established. The fact that an "offer" was tendered and accepted by the franchising authority rather than demanded by that authority makes no practical difference in the administering of our rules. We look at all provisions, particularly for extra services or equipment, that are enforceable against the franchisee regardless of how they originated.

56. We do not mean to imply that any of the particular suggestions mentioned above are necessary to comply with our present requirements. They are simply illustrations of some successful approaches to the problem. In essence we anticipate for now that the franchising process includes open access to the decisionmaking process both for citizens and applicants, fairness to all parties, and consistency in the administration of any rules adopted to grant the franchise.

57. Many parties have asked whether we intended our current rules on public proceedings to include franchise renewal proceedings. The simple answer is yes. We have made no specific requirements either in the initial grant procedures or in renewal procedures. We do not require that there be written bids or even that there must be competitive procedures. In some cases, negotiated bids with selected applicants may be appropriate. These are matters for the franchising authority to decide. Particularly in renewals, which we will discuss more fully later, there may be no reason for competitive bidding. In both initial and renewal proceedings, however, we do require open access, consistency, and overall fairness. We may add new requirements as a result of the inquiry we have just initiated in this area but these minimums, we are confident, will not change.

CONSTRUCTION—LINE EXTENSION

58. In both § 76.31(a) (1) and (2), we refer to the "* * * adequacy and feasibility of * * * construction arrangements" and that the cable operator must "* * * equitably and reasonably extend energized trunk cable * * *." Confusion arising from these requirements prompts further clarification.

59. It was our intent that all parts of a franchise area that could reasonably be wired would be wired. The initial problem we were trying to cope with was the "hole in the donut" situation that could have developed in larger markets, that is, the wiring of the more affluent outlying areas of a city while ignoring the center city or the wiring of the "desirable" section of town and not providing the communications benefits of cable to the poorer areas. It now develops that in most instances this is not as much of a problem as was feared. In fact, the problem is reversed. The high density areas are being wired but the outlying, less populated suburbs are not.

60. Clearly, this problem can best be dealt with at the local level since every community presents unique demographic vagaries. Some over-all guidelines, however, should be set out. Obviously, the ideal case is where a franchisee is required to wire the entire franchise area. This is our present rule. The purpose of the rule was to assure that no "cream-skimming", wiring just the economically lucrative portions of a franchise area, would take place. We are aware, however, that many franchises are being granted that do not encompass the entire political subdivision of the grantor. Such grants are appropriate so long as they are not used as a device to deprive certain portions of the population of service. In some cases, cities decide to grant multiple franchises to different franchisees for various discrete sections of the franchise area. This is acceptable so long as the ultimate result is complete coverage of the area. Clearly, if the area was subdivided in such a way that one area would be highly lucrative while another was marginal and not sought after, the result would be "cream-skimming." This would be unacceptable. Other jurisdictions define the franchise area by way of a so-called "line extension" clause, that is where the cable operator is only required to wire those parts of the political subdivision that contain a specified number of homes per mile measured on some stated formula or base. The numbers we have seen range generally from 30 to 60 homes per mile. In some cases, we acknowledge such a formula is justified. The potential subscribership in a particular community may be marginal in terms of system viability, and the extension of lines to citizens in outlying areas or pockets might spell the difference between success and failure of the system. In other cases, however, systems have apparently sought to maximize profits by only serving densely populated areas even though an averaging of the density figures to include those miles of cable plant in the sparsely populated areas indicated that the system would still be viable.

61. A middle course has been adopted in some instances whereby a formula is established in the franchise so that if outlying pockets of viewers wish the cable extended to them they must pay the specified costs involved in extending the trunk line.

62. We can see reasonable justifications in all of these approaches. They point up the necessity of local involvement in the cable process to deal with the unique problems presented by various communities. We think it would be a mistake to attempt to specify a nationwide rule on this point. Indeed, it might be very difficult to create any such rule even on a state by state level. This is a job for the localities.

63. Because we recognise this problem, we have and will continue to grant certificates of compliance to applicants whose franchises do not require our ideal, the wiring of the entire community. However, before we do, we want assurances in the application and from the franchisor that the public, and particularly those citizens directly affected by the exclusions or conditional wiring provisions, are informed of the effect of such provisions before they are adopted. In at least some cases such notification has been accomplished by local newspaper articles including maps indicating the specifically affected areas. In others, local officials directly contacted affected homeowners. Unfortunately, however, in many cases line extension policies were set without any consultation with the citizens involved, and at least a few instances have been found where even the franchising authority did not fully comprehend the effect of its actions. We are not prohibiting line extension provisions in franchises, but we do intend to require that there be a showing that such provisions were developed knowledgeably and publicly. Any line extension formulas arrived at under these conditions are likely to be reasonable, having taken into consideration costs, population density and averages, terrain problems, long range land development plants, etc. under public scrutiny.

64. Since the assurances we are requesting do not presently appear in our rules, we plan to make the appropriate amendments consistent with the proposal outlined above. We invite any interested party to comment on this suggested addition to our rules. Any other proposals submitted aimed at remedying this problem will also be considered prior to the adoption of any specific new rule or filing procedure.[10]

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[10] Comments filed pursuant to this notice of proposed rule making should be referred to Docket No. 20020.

COUNTY-WIDE FRANCHISES

65. This entire discussion of franchise area delineation takes on even more immediate importance in the many incorporated, county-regulated areas of the country. Clearly a large county with many non-contiguous population pockets does not expect one franchise to wire the entire county, particularly at the rate of construction we have recommended. For this reason, we have consistently contacted applicants for certificates of compliance with blanket county franchises and requested more specific information on what areas the system plans to serve. Certificates of compliance will only be granted for those specified areas, not for an entire county, unless the applicant truly intends to serve the entire area within a specified construction time schedule.

66. In most instances, county franchisees are in fact developing systems for particular unincorporated communities within the county. It would be a significant help to us if county governments designated what they considered to be the discrete communities within their jurisdiction. Such delineations are, after all, uniquely a part of the responsibility of local officials. Their conclusions will have significant impact on the applicability of our rules (for example, in the area of our filing and access channel requirements which apply to each discrete community).

EXTENSION OF SERVICE

67. One of the most common complaints about cable television received by this Commission is a potential subscriber's inability to obtain service. This generally is caused by one of three situations: there is no cable television system in the locality; there is a system, but it will not extend its lines; or there is a system in an adjacent jurisdiction, and it is unable to extend beyond its franchise area.

68. In the first instance, of course, there is little that can be said other than that the community should, if there is substantial interest, seek a franchisee. The second case, refusal to extend service, relates directly to our previous discussion of line extension policies. The third problem, however, is more difficult.

69. In an increasing number of cases, we are finding that newly developed areas, housing developments and the like, find themselves unable to obtain service because they are located either at an extreme fringe or outside the franchise area. This is an unavoidable and vexing problem that can only be remedied by cooperation and planning. The FSLAC report (Issue #15) comments on this situation in detail and we think their conclusions are a helpful guideline to all regulatory authorities:

> Extensions of service, both within a given franchise area and into adjacent areas, have and will continue to be made voluntarily by operators in response to economic and public relations forces. Jurisdiction for mandatory (involuntary) extensions may be applied only to new franchises and renewals.
>
> *Discussion*: The subject of mandating extensions either within the franchise area or to contiguous areas prompted considerable debate within the Committee.
>
> Relating to extension of existing systems, the Committee opposes forced extensions into areas not specifically contemplated or required by the existing franchise. The Committee believes that in most cases an operator's failure to make an apparently feasible extension (i.e., to respond voluntarily to normal market forces) is evidence of economic and engineering problems faced in effecting extensions which were not contemplated when the system was originally designed. In this area there also appear to be valid legal concerns about modifications of existing contracts.
>
> The Committee holds a different view in the case of new franchises where the franchisee has of his own free will accepted line extension requirements as an initial condition of doing business. In such cases we urge both the franchisee and the franchising authority to seriously think and plan the area's development pattern over the term of the franchise so that future engineering problems can be avoided. It would seem appropriate, and consistent with our views relating to the definitions of the franchise area for the franchising authority and franchisee to agree upon an expandable definition of the required service area including a clear statement of the condition under which extensions could be mandated.
>
> For these purposes renewals can be viewed as new franchises, assuming * * * that a non-renewed operator who has faithfully performed his expired franchise is assured of realizing fair value for his property. Subject to this condition, as in the case of a new franchise, whatever requirements are imposed would be the result of an arms-length agreement.
>
> Finally this position on renewals would tolerate the imposition of extension requirements on existing franchisees in the extraordinary cases where, by state action establishing an overriding public interest in receipt of cable service, all existing franchises were terminated and reissued.[11]

70. In this regard, particularly in areas where there are pockets of population or growing surburban subdivisions, we would urge that franchising authorities in contiguous communities join together in planning for future cable development. We have seen several cases in which a new housing development was unable to get cable service because it was on the extreme edge of its community but the adjoining jurisdiction's cable system was readily available. A 'joint powers' agreement or other type of cooperative arrangement between the communities could easily solve these problems.

71. We are treating this subject in considerable detail because we consider it one of the most important factors in local and regional franchising. Service extension and the delineation of the franchise should be one of the primary concerns of local regulatory authorities. It has received too little attention in the past.

FRANCHISE LENGTH

72. Our rules limit the length of a new franchise to a maximum of 15 years (Section 76.31(a)(3)). This rule was prompted by the initial trend in franchising that led to extremely long (i.e., 99-year) franchises which afforded local authorities no opportunity to review and modify the franchise agreement if necessary. Lengthy franchise grants, we noted in our 1972 report, "* * * are an invitation to obsolescence in light of the momentum of cable technology" (par. 182). We also stated, in the reconsideration of cable television report and order, Para. 111, that there might be some instances where longer franchises are warranted and that we would entertain waiver requests in those cases. The FSLAC report recommends that this rule be changed in favor of a more flexible approach. They argue that, particularly in the larger cities, 15 years may not be sufficient time to develop and make profitable the advanced and complex broadband communications systems being contemplated. The Committee Report states:

> "* * * It is our feeling that a fifteen year maximum period does not sufficiently deal with the difficulties of financing modern systems in cities of widely varying size. Accordingly we recommed that the maximum franchise period be redefined as a range of fifteen to twenty-five years, with specific periods within that range to be determined by individual franchising authorities. As an integral part of this recommendation provision should be made by the franchising authority for review at least every five years, commencing at most ten years after the franchise grant.
>
> The central purpose of such reviews would be to consider such issues as system performance, design modifications, and the possible need for changes in franchise terms. Such reviews might result in alterations in the basic franchise, franchise extensions, and other possible changes in the agreements between the parties. In no case would such review periods preclude proceedings by the franchising authority at any time for termination of the franchise for cause."

73. The problem of minimum franchise terms has also been raised. In some cases, certificates of compliance are being sought for franchises with a one-year term. We question the advisability of this short a franchise duration. The capital costs and commitments involved in building a cable television system would seem to dictate against entrepreneurs accepting such short terms. We understand that in some states a year-to-year franchise is easier to secure than a term franchise necessitating a public referendum. However, such year-to-year franchises impose significant risks and increased administrative burdens. We intend to consider a rule imposing some minimum franchise term, possibly between 5 and 7 years, to remedy this problem.

74. We invite any interested party to submit comments on both the proposal made in the FSLAC report and our suggestion for a minimum term requirement as wel las any other suggestions

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[11] See also Minority Comment, FSLAC Report Appendix A, which argues that state action may be the most appropriate or effective method of establishing nonconfiscatory required service extensions.

for modifications of our rules on franchise duration. Of particular interest would be any cash flow figures supporting contentions for the need for longer franchise terms.[12]

FRANCHISE MODIFICATION AND RENEWAL

75. The entire subject of franchise duration, modification, renewal, expiration, and cancellation is one that is fraught with difficulties. First, a few points should be made to clarify our own filing requirements in this area. While we are considering propsals to change the duration rules (§ 76.31(a)(3)), the existing 15-year maximum will remain in effect. This maximum applies to both the initial grant and any renewals. A franchise calling for a 15-year term with a renewal option at the sole discretion of the franchisee does not comply with the rule. The franchisor must at least review, in a public proceeding, the performance of the system operator and the adequacy of the franchise as well as its consistency with our rules prior to renewal. This is not to say that any bid procedures are required or that any new franchise offering must be made, but simply that a public review of the franchise must be held with the opportunity for citizen input prior to renewal. In this regard, it should be noted that our rules, and the certificates of compliance we grant, are based in part on the franchises included in the application. The certificate does not apply to renewal franchises or to the terms of franchises significantly amended in any way, such as a change in termination date, service obligations,[13] or franchise fees. Any such substantial change or renewal we consider to effectively terminate the existing franchise and that termination (or in effect the granting of a new franchise) requires recertification (or certification in the first instance on grandfathered franchises). An exception to this doctrine is a change in subscriber rates. Such a change is consistent with our rules so long as it is done in a public meeting and will not be considered to have terminated the existing, certified franchise.[14]

76. The reason we are taking this approach to substantial changes in franchises should be obvious. Our entire program of certification would be meaningless if significant alterations, potentially contrary to our rules, could be made in a franchise after we had certified that it complied with federal regulations. Any substantial change in a franchise, of course, would automatically end any "grandfathering" rights regarding other provisions in the same franchise. Our "grandfather" of pre-March 31, 1972 franchises was meant to give franchising authorities a reasonable amount of time in which to bring their franchises into compliance. If they are now changing provisions in the franchises, they also have had ample opportunity to acquaint themselves with the new rules and will be expected to comply with all of our franchise requirements. In dealing with previously certified applicants, we will assume that they are operating pursuant to the already certified franchising during the certificating process for the new franchise.

FRANCHISE EXPIRATION AND CANCELLATION

77. In Reconsideration we expressed concern over situations where franchise renewal applicants threaten to terminate service to the public rather than reach an accord with the franchising authority. Once again, the comments in the FSLAC Report (Issue #10) are helpful by way of clarification:

> * * * [T]wo * * * problems in this area * * * bear mentioning. First, as the franchise term draws to a close with no assured renewal or fair compensation in sight, the cable operator acquires a strong disincentive to invest in needed new equipment that he cannot be certain of amortizing over the remaining term; the result, obviously, is a deterioration of service. Second, unfortunately, this situation has in the past created extreme and sometimes unwarranted pressures on franchise authorities and system operators to reach renewal agreements. Both these excessive pressures and the disincentive should be removed.
>
> First, the Committee feels there should be no cancellation or expiration of the franchise without fair procedures and fair compensation. The existing franchisee should be given adequate notice and opportunity to be heard. Furthermore, we suggest that if the decision is adverse to the existing franchisee, the franchisor should have some provisions for an assignable obligation to acquire the system at a predetermined compensation formula. In the case of non-renewal this formula should call for payment of fair market value of the system as a going concern; whereas in the case of cancellation of the franchise for material breach of its terms, the compensation criterion might call for depreciated original cost with no value assigned to the franchise. In either case, the Committee would suggest that there be provision for impartial arbitration if the negotiators fail to agree on a price. The franchisor's obligation should be fully assignable to a successor franchisee selected by the franchisor.
>
> It is also advisable, we believe, that there be a requirement that, during the reasonable interim period while transfer of the system is being arranged, the original franchisee be required to continue service to the public as a trustee for his successor in interest, subject to an accounting for net earnings or losses during the interim period.
>
> All of these provisions should be included in the franchise itself so that the parties to the franchise know their respective rights and obligations and can plan their operations accordingly.

78. We think the Committee's advice is well taken. All the provisions mentioned are of utmost importance to the orderly process of renewal or transfer of system control. The public is directly and potentially severely affected if these provisions, or ones like them, are not contained in the franchise. We strongly suggest that all franchising authorities include such provisions.

79. Our concern in this area is so great, particularly as to guaranteed continuation of service to the public, that we are considering adopting rules requiring franchises to contain specific provisions and procedures relating to expiration, cancellation, and continuation of service. We invite all interested parties to comment on this proposal.[15] Particular attention in the comments should be given to whether the rule should be a general one, simply requiring that franchises contain such provisions or whether the rules should be more specific as to the type of safeguards we should require to protect the public interest in this area. We would reiterate, however, that regardless of the outcome of this proceeding, franchising authorities would be wise to adopt the type of provisions discussed above. Too many instances have already come to our attention of threats to cut off service to the public.

TRANSFERS

80. In a related notice of rulemaking and inquiry, we would like to explore the difficult problem of transfers or assignments of control of franchises.[16] At the moment we have no firm rules in this area and many questions have arisen. We note, for instance, that most new franchises require prior local approval before a transfer can take place. We assume that such approvals are given only after full public proceedings. We do not, however, require the inclusion of such provisions in the franchise at this time. Comments are invited on whether such requirements should be added to § 76.31 of our Rules.

81. Unfortunately, this is not as simple as it may appear. What, for instance, constitutes a transfer of control? If corporate ownership changes by acquisition, merger, etc., yet the local franchisee remains the same, should this trigger a public proceeding with all that entails? What effect would such an interpretation have on the ability of multiple system operators to consolidate, merge, etc., in the open market place? Should franchising authorities even be concerned with

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[12] Comments filed pursuant to this Notice of Rulemaking should be referred to Docket No. 20021.

[13] The term "service obligation" or "service package" as used herein includes generally all requirements imposed on the franchisee relating to local origination or access programming, equipment, personnel, or any other purported obligations relating to programming or any other special benefits required for specified programmers or subscribers.

[14] We, of course, are primarily concerned with changes that have some relationship to our rules. We are not including in this interpretation of when recertification is required changes in such areas are indemnity or bonding requirements, specific construction or safety alterations, reporting and enforcement procedures and the like. We recognize that the franchise is a "living" document and changes must be made from time to to reflect current situations and practices.

[15] Comments filed pursuant to this notice of proposed rulemaking should be referred to Docket No. 20022.

[16] Comments filed pursuant to this notice of proposed rulemaking and inquiry should be referred to Docket No. 20023.

this type of "transfer" so long as the negotiated terms of their franchise are enforceable? Clearly it is time for us to inquire into these areas and adopt appropriate regulations to deal with them where necessary.

82. A question has been raised as to whether franchise transfers constitute a "significant change" so as to require recertification. At the moment, they do not. It would seem that so long as the franchise terms comply with our rules and the franchise is so certified, it is unnecessary for us to require recertification of the same document. The selection of the franchise holder is, after all, a local matter under our rules.

83. While we do not consider recertification necessary because the terms of operation in a simple transfer or assignment remain the same, we are considering adding a provision to our filing requirements for the submission of a new Form 325 for any transferred system. Such a rule would assure us that our files are always updated on transfers of ownership as soon as they occur. When we receive this information, it would be checked for compliance with our cross-ownership rules. A statement of such compliance accompanying the submission might also be required. Comments on this proposal or any other recommendations on dealing with the complex problems involved with transfers of control as well as franchise expiration, cancellation, and termination are invited. The discussion of these problems above should put all parties on notice that we consider this a particularly difficult area that requires careful study and perhaps additional regulation.

SUBSCRIBER RATE REGULATION

84. In § 76.31(a)(4) we require that cable systems, in order to receive a certificate of compliance, must have a franchise providing for franchisor approval of initial charges for installation and regular subscriber service. We have intentionally and specifically limited rate regulation responsibilities to the area of regular subscriber service, and we will continue to do so. We have defined "regular subscriber service" as that service regularly provided to all subscribers. This would include all broadcast signal carriage and all our required access channels including origination programming. It does not include specialized programming for which a per-program or per-channel charge is made. The purpose of this rule was to clearly focus the regulatory responsibility for regular subscriber rates. It was not meant to promote rate regulation of any other kind.

85. After considerable study of the emerging cable industry and its prospects for introducing new and innovative communications services, we have concluded that, at this time, there should be no regulation of rates for such services at all by any governmental level. Attempting to impose rate regulation on specialized services that have not yet developed would not only be premature but would in all likelihood have a chilling effect on the anticipated development. This is precisely what we are trying to avoid. The same logic applies to all other areas of rate regulation in cable, i.e., advertising, pay services, digital services, alarm systems, two way experiments, etc. No one has any firm idea of how any of these services will develop or how much they will cost. Hence, for now we are preempting the field and have decided not to impose restrictive regulations. Of course, at such time as clear trends develop and if we find that the free market place does not adequately protect the public interest, we will act, but not until then.

SUBSCRIBER COMPLAINTS

86. Assuring that subscribers receive quality service and quick resolution of any complaints is one of the most important regulatory functions to be performed at all levels of government. The primary locus of responsibility, however, must be at the local level, where the service is. For this reason we stated in § 76.31(a)(5) that specific procedures for the resolution of subscriber complaints shall be included in the franchise and that there shall be a local business office or agent available to subscribers to remedy complaints. Many franchises are now being reviewed which have full statements of the franchisee's obligations to resolve subscriber complaints but no indication whether the franchisor has any responsibilities. We wish to make it clear, therefore, that this obligation was meant to cover both parties.

87. If no specific franchise statement indicates with whom or where to register complaints at the local level and what will be done with them once received, the public is not well served. The result of this information gap to subscribers is that local complaints often are sent to this Commission.[17] We, in turn, inform the correspondent that his complaint is within the purview of local not federal officials, and he should contact them. Much time and effort is thus wasted.

88. In order to fully comply with § 76.31(a)(5), therefore, we expect that franchising authorities from this point on will include specific provisions in the franchise on what government official will be directly responsible for receiving and acting upon subscriber complaints.[18] We would also urge that this information along with the specified procedure for reporting trouble to the cable operator be given to all subscribers as they are hooked into the system. Some communities have required that a card with this information on it be given to each new subscriber. It seems to have worked well, and we would encourage adoption of this approach.

89. Some questions have been raised regarding the meaning of our requirement for a "local" business office. In most cases, this is a clear requirement. A system serving one city should have a business office or other means in that community to receive and act on subscriber complaints. However, we will be flexible in the interpretation of this rule as it relates to a single head-end multi-community system or a "county" system. The operator of a single-plant multi-community system need not have a business office in each of the communities served so long as subscribers can call a local telephone number to register complaints and personnel are available to act on those complaints. On the other hand, we will not accept a situation where there is only one business office in a large county necessitating long-distance telephone calls for some subscribers to register their complaints.

FRANCHISE CONSISTENCY

90. As we have said throughout the period of developing these rules for cable television, the process is evolutionary. We expect to continue to modify, clarify, add, or eliminate provisions as the need arises. We intend to remain flexible in this regard and franchising authorities should be on notice that this is the case. For this reason, we included the requirement § 76.31(a)(6) that a franchise should specifically contain provisions allowing for amendments to comply with our rules. Unfortunately, although this rule appears to be clear on its face, many franchises have not included such a provision. It should be understood that any required modifications would have to be made even where a franchise does not specifically state that it is amendable to comply with our changes within one year. However, we would prefer a clear statement in the franchise to that effect to make sure all parties are aware of the possible need for modifications.

FRANCHISE FEES

91. In § 76.31(b) a limitation is imposed on the franchise fee deemed acceptable in an application for a certificate of compliance. Many questions have been raised about the perimeters of this limitation (see, e.g., FSLAC final report (Appendix B) "memorandum regarding clarification of § 76.31(b) and related matters" and the associated minority opinion.)

92. The purpose of the limitation we imposed was clearly stated in the Cable Television Report and Order:

> * * * We are seeking to strike a balance that permits the achievement of federal goals and at the same time allows adequate revenues to defray the costs of local regulation.

We have found no reason to change our position on this matter. The use of the franchise fee mechanism as a revenue raising device frustrates our efforts at developing a nationwide broadband communications grid. Excessive fees or other demands in effect create an obstruction to interstate commerce which must be avoided.

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[17] This Commission has established a subscriber complaint service to aid the public. Its efforts are primarily aimed at clearing up misunderstandings between subscribers and systems with regard to our rules and the informal resolution of complaints.

[18] We propose changing our rules to make this requirement clear. Any interested party may file comments on this notice of proposed rulemaking. Comments on this subject should be referred to Docket No. 20024.

93. The figure of three percent of gross subscriber revenues seems to more than adequately compensate the average franchising authority for actual regulatory costs. We have provided a waiver mechanism for fees up to five percent of gross subscriber revenues in those cases where an unusual or experimental regulatory program is proposed that can be shown to need the extra revenue.

94. Because of the many questions raised regarding this rule we will review the reasoning, intent, and scope of § 76.31(b) as it relates to the rest of our rules. First, some definitions appear necessary.

"GROSS SUBSCRIBER REVENUES"

95. The term "gross subscriber revenues" is meant to include only those revenues derived from the supplying of regular subscriber service, that is, the installation fees, disconnect and reconnect fees, and fees for regular cable benefits including the transmission of broadcast signals and access and origination channels if any. It does not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues, or any other income derived from the system.

FEES FROM AUXILIARY SERVICES

96. We recognize that the income derived from auxiliary cable services may at some future time constitute the bulk of a cable system's receipts. We have no intention of depriving the franchising authority of a reasonable percentage of those receipts at that time. But for now, the monies derived from ancillary services are best used to support the development of those experimental and largely unprofitable services. We encourage experimentation in ancillary services. Any funds that can be freed to support those services will ultimately benefit the community of the system and aid our efforts at seeing these services develop nationwide.

97. Because we are presently imposing a "gross subscriber revenues" limit on franchise fees which may, at some future date, be lifted, we suggest that franchising authorities write their franchise fee provision flexibly, that is, using a "gross subscriber revenues" base for now but including a provision for the base to change to "gross revenues" automatically in the event that this Commission changes its rules.

98. There have been several cases where a franchise fee was based on something other than gross subscriber revenues. Generally, such instances arise when the fee is based on a specific monetary figure per year per subscriber. In those cases, the percentage is figured based on the subscriber rate and an average penetration estimate. Regardless of how the fee is stated, however, we will attempt to translate the fee into a percentage of gross subscriber revenues to see if it reasonably complies with our rules.

STATE AND LOCAL FEES

99. It should be noted that we include all non-Federal regulatory fees in our limitation. The purposes stated in the *Report and Order* would clearly be circumvented if we interpreted the rule otherwise. Our concern that "* * * high local regulatory fees may burden cable television to the extent that it will be unable to carry out its part in our national communications policy * * *" (Para. 185) is just as valid if the burdensome fees are imposed by a combination of local authorities. Accordingly, both local franchise fees and state fees, if any, will be added together to determine compliance with our fee limitations.

100. Another related problem has recently been brought to our attention in this area of fees. Several jurisdictions are now attempting to impose a "use tax" as well as a fee for cable television service. It would appear that such a tax, particularly when its purpose is described as general revenue raising, results in the same potential harm we are attempting to avoid by imposing a franchise fee limitation. While the particular cases before us (CSR-479, Stockton, Cal., and CSR-499, State of Florida) will be dealt with in separate actions, we think it is necessary to express our concern about this development. The burdens and obstructions to the growth of a viable nationwide communications grid remain the same whether imposed via a fee or a tax mechanism.

FRANCHISE FEE WAIVERS

101. As we noted earlier and made clear in the report and order, waiver of the three percent ceiling is available. Indeed, even our rules indicate that up to five percent could be considered a reasonable fee depending on specific showings. Many have asked what exactly need be shown to allow a fee between three and five percent.

102. While each case, of necessity, is different and must be handled on an individual basis, some general guidelines can be given. The bulk of the regulatory burden at the local level comes in the first few years of cable development. The creation of a cable ordinance and the granting of a franchise as well as supervision of construction all occur in this period. Aside from normal franchise enforcement and review, very little actual regulation on a day-to-day basis goes on after this initial surge of activity. The number of franchises now being adopted with our fee limitation intact indicates that three percent of gross subscriber revenues does cover these costs.

103. It is the rare case where a more comprehensive regulatory program is contemplated that extra fees might be justified. Such programs are usually in the larger markets or where experimental applications of cable are being attempted. In these cases, we recognize that our three percent fee limit might not cover the costs incurred. Where it can be shown that the three percent figure will not be adequate and that the specific contemplated costs of the specific regulatory program require extra input in the form of fees up to five percent of gross subscriber revenues, we will entertain waiver requests.

104. Petitions to justify fees in excess of three percent should include both a full description of the special regulatory program contemplated and a full accounting of estimated costs. Such petitions should also contain information on the estimated subscriber penetration and the derived figures on revenue anticipated from the franchise fee. It is only with a complete showing of this nature that we can realistically determine if the extra fee request is justified and that it will not adversely affect the operator's ability to accomplish federal objectives.

105. The recitation of the normal obligations to oversee a franchisee assumed by the local authority is not sufficient to warrant extra fees. Justifications that simply allocate a portion of the time and salary of various city officials to cable regulation without a full explanation of the special regulatory program to be carried out will also not be considered sufficient. Such an allocation, without amplification, would only confirm that the fee is being used to augment the general treasury as a revenue raising device.[16]

106. The reason we have allowed for extra fees despite our concern over the possible strain such fees impose on our nationwide program is to maintain flexibility. In those cases where a special office of telecommunications (such as in New York City) is warranted by unique circumstances or special personnel is hired to handle cable television regulation and complaints, the new costs could in part be covered by the higher franchise fee. Very few situations of this type have come to our attention.

LUMP SUM PAYMENTS

107. Included in our fee limitation is a notation on lump sum payments or payments-in-kind. It is important that everyone understand the ramifications of this notation. Were we to allow a large initial lump sum payment for securing the franchise it would negate the effort we have made to limit the franchise fee. Bidding contests would continue unabated. The public would be the ultimate loser since the franchising authorities and bidders would focus on bidding rather than how and by whom the best service can be provided to the community. We therefore include any lump sum payments in our injunction on the ultimate size and effect of the fee. Such payments are amortized over the term of the franchise to determine their effect on the percentage figure. One exception to this method is stated consulting fees and expenses incurred in the granting or renewal of the franchise. If these fees

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[16] We note that the Report to the President by the Cabinet Committee on Cable Communications (1974) has adopted our view against the use of cable franchise fees for such purposes. Recommendation 9(c).

are not excessive and can be shown as direct costs to the franchising authority, we think they should be recoverable from the ultimate franchisee or from all franchise applicants as has been done in some cases. It is not unusual for the franchising authority to spend several thousand dollars for an independent survey or consultant to aid in developing the cable ordinance. So long as these expenses do not become a new form of bidding we will not include them in our calculation of franchise fees. A specific showing of the expenses, however, should be made. Ideally, the expenses should be calculated and set prior to franchise bidding and the established costs either allocated among the bidders or applicable to any franchisee. Of course, we will continue to watch such charges for any evidence of abuse.

EXTRA SERVICE PACKAGE REQUIREMENTS

108. Another area that we closely monitor in relation to the franchise fee is the rather all-encompassing problem of "extra services". This has included everything from the free wiring of entire school systems to the building of television studios attached to the local high school, extra free channels, fees for access groups, and even free television sets for city officials. This is a very difficult problem to deal with, as can be seen from the Federal/State-Local Advisory Committee's rather lengthy discussion of the topic, *supra*. It is precisely because these "extra services" take such diverse forms that specific guidelines are almost impossible to enunciate. We will attempt to discuss some of the more commonly requested extra services and their relationship to our overall policy. In that way we would hope that franchisors and applicants can be more sensitive and responsive to the problems we see developing.

109. In many if not most franchises, the franchisee is required to install one free "tap" or "drop" in each local school and often in every other government building (city hall, firehouse, etc.). We have no objection to such a provision. In a few instances, however, the free extra service has been much greater. Some franchises have required the cable operator, for instance, to wire each room in all the local public schools. This in essence requires the operator to internally wire the school system free of charge. Such an expense can be considerable, especially when several hundred rooms might be involved. The cost of equipment and materials alone could amount to more than the revenue derived from the franchise fee. It is this sort of indirect "payment-in-kind" that we are watching very closely and will not allow without justification. This type of expense is just as real and has just as much of an effect on the franchisee as a simple fee. All parties must begin to recognize that when such costs are incurred they of necessity often become trade-offs on service provided elsewhere to the community at large. In this example we merely have the cable operator subsidizing the school system. That is not his function.

110. A trend seems to be developing where franchising authorities specify in the franchise the production equipment to be made available. Some franchises have become so technical that they even include the model numbers of particular microphones and cables. While such "service package" requirements are not prohibited by our rules, we do not think it is a particularly good idea. Technology in the area of low-cost video production equipment is advancing so rapidly that such specifications are likely to be an invitation to planned obsolesence. We only repeat, in this regard, that origination and access will not work because of anything written in a franchise. It is far more important for the franchising authority to assure itself of the character, responsiveness, and interest of the potential operator than it is to write strict franchise provisions in this area. The mere requiring of specific cameras and equipment will not guarantee successful community access. Real commitment and interest cannot be required in any legal document.

111. As was noted earlier, if the franchising authority wishes to specify the service package it expects from the operator in the franchise, we will not stop it from doing so. Reasonable service offerings can and are being made in the franchising process. Both franchising authorities and franchise applicants must recognize, however, that any specification of services will reflect on the costs of the over-all service to the community. Excessive service demands or offers will affect the viability of the system. Cable operators must learn that accepting such demands simply to secure a franchise may not be in their or the cities best interest. Similarly, franchise authorities must be cautious in accepting high priced extra service offerings on the basis of bid procedures. The net effect of some superficially attractive offerings might be a basic system that does not find it possible economically to serve the community properly.

112. It has been our policy to date to view any service package requirements in relation to our franchise fee limitation. We plan to relax this approach experimentally. The service package—so long as it is directly related to services and equipment which can potentially benefit all cable users—will now be treated as a contractual question and, so long as the package is not clearly excessive, solely up to the discretion of the franchisor and franchisee.[illegible] We wish to emphasize, however, that we are relaxing the effect of our rules experimentally. Any evidence that cable operators or franchisors are using this relaxation to return to the damaging process of simple "bidding contests" will result in the immediate reinstitution of our former procedures.

113. It should be noted that we are making a distinction on what will or will not be viewed as part of the franchise fee "payment-in-kind" limitation. Required extra services that benefit only one group of special users is still considered a type of cross-subsidy that will be viewed in relation to the franchise fee. As an example, the operator being required to wire the entire local school system for closed circuit cable use would still be considered payment-in-kind. Specific equipment or personnel requirements where the benefits are available to all cable users would not.

114. Our purpose, in part, in imposing a franchise fee or payment-in-kind limitation was to prevent the siphoning of the limited available capital for cable development for other uses, thereby threatening the success of our overall national goals. We intend to maintain that limitation. Reasonable service requirements that directly benefit cable development and use by all parties is compatible with that purpose.

115. Another reason for this adjustment in our review policy is that the complexities involved in any service package offering and the innumerable variations result in an ad hoc administrative process that cannot be effectively carried out with any consistency. We are, however, sensitive to our obligation to insure that abuses do not arise that will threaten our nationwide program. For this reason, we expect to issue a Notice of Proposed Rulemaking in the near future that will suggest revisions in our filing and reporting procedures so that we can get more specific data on the costs of special service packages.

116. The information we will be seeking is also information that any responsible franchising authority should demand prior to accepting any applicant's proposal, i.e., what are the expected expenses involved in the service offering; how will those expenses contribute to the quality of cable services in the community; what will be the effect of those expenses on the financial viability of the system, etc.

117. We will no longer attempt to "second guess" the franchising authority on the answers to those types of questions. It is hoped that all parties will realize that decisions made in the area of required services may well have a major impact on the development of cable in any particular locale. We will, however, continue to monitor such agreements. If we find that serious abuses are arising that could effect our national goals we stand ready to re-establish procedures to remedy the problem.

118. Once again, it should be emphasized that the flexibility we are encouraging in service packages is restricted to services, equipment or personnel available to all cable users. Proposals that would benefit only one class of cable users would not be acceptable. Studios, equipment, or mobile vans designated for use or given specifically to one group such as the educational authority or a public access group would not be reasonable.

[illegible] In this context we are discussing "service packages" only as they relate to equipment, personnel, etc. This does not include pre-empted services such as extra channels, origination programming, etc.

Such equipment, etc., must inure to the benefit of all users, including the cable operator, for his own origination programming, if any. As was explained in detail earlier in this document, guidelines, and procedures for waivers will remain in force regarding channel capacity, extra access channel demands, etc.

USE OF FEES FOR OTHER PURPOSES

119. In yet another area where the franchise fee limitation has come into question, we have received many inquiries regarding the use of the fee for purposes other than to defray regulatory costs. Proposals have been made, for instance, to use a portion of the franchise fee to pay for access programming or to aid local educational broadcast facilities. As a general rule we have stated that the franchise fee should be based on regulatory costs. It should not be used for revenue raising purposes. We continue to hold this position at this time.

120. As with most of our other regulations in this field, we intend to maintain flexibility. We will entertain waiver requests for the use of franchise fees for non-regulatory purposes. Such requests, however, must be very specific. Information on how the funds will be used, distributed, and accounted for must be included. A showing that the proposed use of the fee is consistent with our regulatory program and will benefit the development of a broadband communications system will also be necessary. In carefully reviewed cases where a specific experimental program designed for a particular community is presented we will consider granting waivers of our rules. Generally speaking the use of these "extra" fees will be limited to the same maximum now imposed for regulatory purposes, five percent of gross subscribed revenues. In most cases that have come to our attention the special uses fees are limited to the two percent "pad" between three and five percent. It is unlikely that we will allow waivers for any proposal that exceeds a total of five percent for regulatory and non-regulatory purposes.

121. Proposals to use the two percent "pad" in the franchise fee rules for public access purposes pose several significant problems for us. While we recognize the need for additional funding for access, there are serious difficulties, we feel, with governmental funding of programming. These difficulties exist regardless of the mechanism for distribution. We intend to issue a separate document shortly that will address this specific issue.

CONCLUSION

122. In summation, on the question of franchise fees and extra services or other obligations, we intend to be vigilant and monitor any such requirements thoroughly to assure that no undue burdens are being imposed that would result in a diminution of the overall goals we have set for cable television. Reasonability is the keynote to any such program, and we will remain flexible and open to any thoroughly considered proposals. Our rules and the service requirements we impose on cable operators are intended to provide a solid base for the development of a nationwide means of broadband communications. In most instances, no more is required or, indeed, desirable at this time. It is unreasonable to expect an infant industry to be able to start where we all hope it will eventually end—as a truly new and innovative highly complex broadband network. It must be allowed to grow in stages or it will be killed by overexpectation and excessive demands.

123. The clarifications and guidance we have provided in this document will hopefully aid all parties in our effort to develop responsive and flexible regulations for an emerging industry. The announcement of several new rule making inquiries herein is yet another testimonial to the fact that we intend to continue to investigate, clarify, modify or change our regulations as the situation warrants. The regulatory concepts we have adopted are new and many of our rules are experimental. We welcome any supported recommendations aimed at improving them.

124. Authority for the rule makings proposed herein is contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on these rule making proposals on or before June 7, 1974, and reply comments on or before June 21, 1974. Please note that separate docket numbers have been assigned to individual rulemaking inquiries initiated herein. Comments should also be filed separately. In reaching a decision on these matters, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

125. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs or other documents filed in this proceeding, shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission Public Reference Room at its Headquarters in Washington, D.C.

Adopted: April 15, 1974.

Released: April 17, 1974.

FEDERAL COMMUNICATIONS
COMMISSION
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-9141 Filed 4-19-74;8:45 am]

Selected abstracts from colleges responding to the national survey:*

	COLLEGE AND RESPONDENT	CABLE OPERATOR
1.	Canada College 4200 Farm Hill Blvd. Redwood City, California 94061 James W. Duke, President	Telecommunications 12,000 subscribers Began operations in 1969

An excellent relationship exists between college and cable operator, who offers the college 4 hours per week of a staff member to assist with college programs. Canada College has developed a communications/cable TV course which provides instruction in the effective use of cable as a mass communications medium. Students produce programs on consumer education, college services, cultural enrichment, and other special interest areas. KRON, Channel 4 in San Francisco, Channel 14, Channel 54, and other cable systems in the Bay area telecast two series produced by Canada at the College of San Mateo's studio KCSM. Students provide all technical services. College has limited closed circuit system.

2.	Coast Community College District 1370 Adams Avenue Costa Mesa, California 92626 Bernard J. Luskin, Vice Chancellor Educational Planning and Development	KOCE-TV (college owned and operated) Began operation in 1972

3.	Merced College 3600 M Street Merced, California 95340 Lowell F. Barker, President	General Electric Cablevision 6,000 Subscribers Began operation in 1966

College is currently engaged in developing a relationship with the cable operator. Service area receives KQED, Channel 9, the public television station in San Francisco. KPIX, Channel 5 cooperates with the college in presenting "Media in America (produced by New York University) as a "Sunrise Semester" course. Merced is a member of the Central Valley Consortium of Community Colleges which produces "History of the World Theatre", originating from Fresno, KFSN, Channel 30. Ray Giles, Information Officer at Merced, produces a weekly community report for a local radio station. Have limited closed circuit system.

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*Conducted by Howard Community College, Columbia, Md. Completed June, 1974.

Selected abstracts from colleges responding to national survey:

	COLLEGE AND RESPONDENT	CABLE OPERATOR
7.	Rock Valley College 3301 North Mulford Road Rockford, Illinois 61101 Guy Fiorenza, TV Coordinator	Metro Cable Co./CATV of Rockford 3,200 Subscribers/3,260 Subscribers Began in 1972/Began in 1973

An Educational Authority has been formed in Rockford to coordinate programming over the cable's educational channel. All schools are represented. Service by cable operator includes one cable installation and free monthly service (additional connections at institution's expense). College closed-circuit system included master antenna for off-air signals and television studio for live or pre-recorded programming. Public libraries in the area will also receive installation and monthly service at no charge.

8.	Vincennes University Vincennes, Indiana 47591 Glenn Cummins, CATV Office Manager	Vincennes University Serves four cities Began operations in 1966

Vincennes University was the first public agency in the nation to float bonds to provide a CATV system, obtaining 15-year franchises from four City Councils and one County Board of Commissioners to serve four cities. Two bond issues were offered, the systems were constructed, and this year the system established educational television to provide: (1) a wider viewing for the communities (10 channels); (2) credit courses to the community and student instruction; (3) serve the Southwest Educational Television Council and make educational television available to public schools; (4) community service through specialized programming; (5) a direct outlet for the presentation of community affairs; (6) programs of a vocational-technical nature to serve the students at the University; (7) in-service training for CATV linesmen and radio and TV broadcasting students. Projections for the next two or three years are that the CATV system will provide at least a quarter to a million dollars to support educational television. The University is also a member of the Indiana Higher Educational Television System.

9.	Delta College University Center, Michigan 48790 William J. Ballard, Director of Television and Station Manager, PBS Station	Flint CATV, Channel 13 19,983 Subscribers Began operations in 1965 (4 other systems serving approximately 24,786 subscribers)

The college does not access the CATV systems because it holds a license to operate a public broadcasting station; therefore, an educational channel is available at all times. Program production is extensive for both radio and television - videotapes are 2". College closed-circuit system interlaced with the station operation.

Selected abstracts from colleges responding to national survey:

COLLEGE AND RESPONDENT

CABLE OPERATOR

10. Clark Technical College
570 East Leffels Lane
Springfield, Ohio 45505
Thomas M. McCuistion, Director
Instructional Services

Continental Cable of Ohio, Inc.
System will begin operations
in January, 1975

Relationship between college and cable operator is very cooperative; cable operator has offered the college the opportunity to be an origination point. Plans for use include community, adult, and continuing education programs. Closed-circuit cable system is extensive and operates on a three-channel capacity. Equipment includes a black-and-white studio. Production of programs in the health and business areas ranges from on-site recordings to complete studio productions. College participates in the Dayton-Miami-Valley Consortium of Colleges and Universities providing liaison for exchange of books, periodicals, AV materials and personnel. "CATV Training for Community Decision Making", a videotape production by the Consortium is presented by college staff to community groups. Cable operator has agreed to provide porta-pak equipment and free air time for public access. Community acceptance has been very positive.

11. Oklahoma State University
Educational Television Services
Stillwater, Oklahoma 74074
Marshall E. Allen, Head
Educational Television Services

Frontier Cablevision
2,000 Subscribers
Began operations in 1970

Cable operator is presently outlining a proposal to establish a formal relationship with the University, including installation of equipment and the relationship between cable on campus and the campus instructional TV distribution system. Respondent will coordinate cable activities. The CATV Ordinance provided for the installation of an outlet in the campus Communications building by the cable operator. College closed-circuit system (hi-banded quad VTR's) is a color system distributed via a two-channel RF system. Production is done for all public and commercial TV stations in the state, and for the 100 KW stereo public FM station on campus. NOTE: The Oklahoma State Board of Regents operates a "Talk-Back Television System" which is transmitted via microwave to various terminals throughout the state. Educational institutions use this transmitting system to share programs; students enroll in courses offered and resident credit is given for courses completed.

12. Aiken Technical Education Center
P.O. Drawer 696
Aiken, South Carolina 29801
Robert F. Epps, III, Dean of Instruction

South Carolina Educational
Television System
Began operations in 1965

The Center is linked by a cable system serving all branches of the University of South Carolina and the 19 Technical Education Centers. Closed Circuit is used for instruction of regular degree and diploma courses throughout the TEC system, community service courses, dissemination of information on special issues and administrative purposes. Two-way capability is operated by Southern Bell and coordinated with the video circuit for audio conferences among the 19 Centers.

Selected abstracts from colleges responding to national survey:

	COLLEGE AND RESPONDENT	CABLE OPERATOR
13.	Mount Royal College Lincoln Park Campus 4825 Richard Road, SW Calgary, Alberta, Canada	Community Antenna Television 50,000 Subscribers Began operations in 1971

College has a formal agreement with cable operator to provide telecast time for daily FM radio programming and weekly television shows produced by students. First-year Broadcasting students are responsible for all phases of radio broadcasting; equipment includes a stereo board, two tape recorders, two cartridge machines, two turntables, and a newsroom. Second-year students are responsible for TV program productions including documentaries, sports, news. Equipment includes two color cameras, color studio, switcher system, videotape recorders, an animation camera system, etc. Remote capability is also possible. Non-commercial public broadcasting, both radio and TV, are used.

14.	Arizona Western College P.O. Box 929 Yuma, Arizona 85364 Robert E. Hardy, Director of Broadcasting	Valley Telecasting Co. 10,500 Subscribers Began operations in 1961

An excellent relationship exists between the college and cable operator. In addition to its standard AM radio station on campus, the college operates a second radio program service over the cable (100 Mc). Regular television programming over the cable began in January, 1974 from the cable operator's studios. A portion of the campus is wired for closed-circuit cable.

15.	Black Hawk College 6600 34th Avenue Moline, Illinois 61265 Robert Fletcher, Director Educational Television and Radio	Quint-Cities Cablevision 10,000 Subscribers Began operations in 1972

College and cable operator have established a cooperative relationship to facilitate production and administration. Credit courses over cable were offered for the first time in January, 1974. Television production is extensive for academic enrichment, and specialized areas. College closed-circuit system has three-channel capability.

16.	Dodge City Community College Dodge City, Kansas 67801 Charles E. Thornhill, Dean Community Services	Dodge City CATV 4,000 Subscribers Began operations in 1970

Relationship among college, cable operator, and franchise authority is excellent. City Commission meetings are cablecast. College uses closed-circuit cable system and non-commercial public TV broadcasting. Program production is accomplished with students (one-hour intensive training in studio) and is focused on public service/interest, college commercials, and educationally oriented materials. Plans for future programming include police training.

Selected abstracts from colleges responding to national survey:

	COLLEGE AND RESPONDENT	CABLE OPERATOR
17.	Gadsden State Junior College George Wallace Drive Gadsden, Alabama 35903 Don Smith, Head of Broadcasting	Teleprompter 12,000 Subscribers Began operations in 1962

College and cable operator enjoy a cooperative relationship extending to the exchange of equipment and personnel; and program production for local origination channel is coordinated by respondent. As community service programs increase, additional programming activities will be undertaken. Installation of closed-circuit cable system is nearing completion, and college has applied for a non-commercial FM radio station (3.5KW).

18.	Allegany Community College Willow Brook Road Cumberland, Maryland 21502 J. Kenneth White, Instructional Television Specialist	Potomac Valley Television 22,228 Subscribers Began operations in 1955

Cable operator has provided college with cable hookup to receive broadcasts and college closed-circuit system has been wired to transmit programs to cable facility for broadcasting. All programs pertinent to areas of instruction are videotaped as supplements to classroom presentations. Channel 67, Maryland Non-commercial Public Broadcasting (WMPB) is utilized; two televised courses for credit and an instructional supplement. The College, in cooperation with the Department of Dental Hygiene and the Adult Education program, is producing videocassette programs concerned with Oral Surgical Techniques and Procedures; and the Electronics Division is planning a similar undertaking for the Adult Education Program. American Red Cross has been approached to obtain assistance in doing a series on the work of that organization.

19.	Johnson County Community College 111th and Ouivira Road Overland Park, Kansas 66210 John Pearce, Director, Community Cooperation	Telecable of Overland Park, Inc. 13,500 Subscribers Began operations in 1971

College and cable operator have established a viable working relationship with the college originating both live and taped programs over Channel 3A. Productions have been of a community services and public information nature (regular programming began January, 1974) with plans for broadcasting instructional programs by fall, 1974. College is wired for closed-circuit cable.

Selected abstracts from colleges responding to national survey:

	COLLEGE AND RESPONDENT	CABLE OPERATOR
20.	Greenfield Community College Greenfield, Massachusetts 01301 Lewis O. Turner, President	Pioneer Valley Cablevision 3,300 Subscribers Began operations in 1964

CATV broadcasting includes a one-half hour community, county and state house news program and one-half hour educational broadcasting. Specialty programming on pediatrics using local physicians and town meetings; an election night special, and a three-hour special for the Massachusetts Heart Association. Arthur W. Shaw, Director of Communications, responsible for cable activities. New campus has closed circuit system (occupation fall, 1974). Local commercial station broadcasts one-half hour college programming on Sunday evenings including interviews with faculty and students, or time is given to other community agencies for their use.

21.	Southwestern Community College Creston, Iowa 50801 Donald A. Rieck, Director Learning Resources Center	True Vue, Inc. (of Heritage Communications System) 2,089 Subscribers Began operations in 1970

Cable operator provides entry/exit service and limited program time on cable. College plans to build TV production facilities in two years and expand involvement in cable. A closed circuit system is installed; program production is limited to short demonstrations, mirror TV and skill analysis. Some non-commercial radio and TV programming is accessed by the college.

22.	Ocean City College Box L Ocean City, Maryland 21842 Luther A. Schultz, Acting President	WETT-TV 5,700 Subscribers Began operations in 1963

College and cable operator have excellent, cooperative relationship. Cablecasting has included news programming and a college 24-hour telethon. Public broadcasting via Channel 28 and WBOC-TV, Channel 16 are used to broadcast "College of the Air" and "Sunrise Semester" courses. Ocean City College, Salisbury State College and University of Maryland share responsibility for instructional staff. Plans to use local Channel 9 in September, 1974, in Communications Program, and hope to resume radio and TV program production at that time.

23.	Mount Wachusett Community College Gardner, Massachusetts 01440 Arthur F. Haley, President	Montachusett Cable Television 10,000 Subscribers Began operations in 1968

College has been approached by cable operator to supply extensive programming for cablecasting in addition to current productions. New campus has been constructed with a Public Communications facility equipped with two color studios, four radio studios (one stereo), graphics area, photographic studio, and darkroom as well as an audiovisual support facility for 2,000 students. Frank Hirons, Director of Media Services, responsible for coordinating. Closed-circuit cable installed throughout main campus classrooms, portable units used in other campus locations. Non-commercial public broadcasting is used.

Selected abstracts from colleges responding to national survey:

	COLLEGE AND RESPONDENT	CABLE OPERATOR
24.	Kalamazoo Valley Community College 6767 West O. Avenue Kalamazoo, Michigan 49009 Richard A. Olivanti, Director, Publications and Community Relations	Fetzer Cable Vision 16,000 Subscribers

College, in addition to accessing cable channel, has a complete color closed-circuit cable system on campus and a two-year radio and television curriculum. Approximately 100 TV programs per academic year are produced for classroom instruction on campus and other school districts (under contract), as well as outside agencies not seen on cable. Students participate in program production. Also have student-operated Radio Learning Laboratory. College credit is given for student participation in program production activities.

25.	Rainy River Community College International Falls, Minnesota 56649 Wallace A. Simpson, President	7,000 Subscribers

Cable TV is accessed by the College to a limited extent providing experimental programming such as sociology courses (Marriage relationships) with plans for future attempts. An FM stereo radio station (KICC-FM) is operated on campus (36 watts), about 10 hours a day, year round. Richard Hill is college staff member responsible for station management.

APPENDIX F

Cable TV: Stay tuned

By Lisa Holstein

Since a city ordinance allowed cable television companies to begin building in Columbus in 1968, nearly 600 miles of cable have been planted and Columbus is well on its way to becoming a "wired city."

All-American Cablevision has nearly 200 miles of cable and 7,000 subscribers (Plus over 1,500 orders not yet installed). Coaxial Communications has 225 miles and 14,000 subscribers, and Warner Cable of Columbus, whose operations include the Clintonville-Beechwold area, has 225 miles of cable and 10,000 subscribers.

A fourth new cable company, Advanced Cable Television, has been licensed by the city, but has not yet started building.

Open operations

Most cities the size of Columbus have only one or two cable companies operating. In Columbus, however, the city ordinance provided for non-exclusive franchises in compliance with a state law that forbids giving one company favor over another.

Theoretically, all three companies could operate anywhere in the city rather than in the territories they presently remain in. It was the competition this part of the ordinance inspired that made the wait for cable service such a long one.

Robert W. Newlon, director of public utilities, said he found the four originally franchised companies were "spending a great deal of time getting pole rights (the cable companies are required to use existing poles by dealing with the telephone and electric companies wherever possible), and getting into feuds."

One company had its license taken away because it had not begun development and Newlon said he suggested each of the three remaining get a "zone of influence and stay within it."

City divided

Newlon split the city up into three sections, where he "strongly suggested" the companies remain until they have service available to 80 per cent of the homes there.

Newlon said the areas are about equal in terms of the potential subscribers living within them, although Warner appears to have the largest section since it operates in Upper Arlington through an agreement made independently with the city government there.

Advanced cable will be allowed to build anywhere as originally proscribed, although Newlon said the company had expressed interest specifically in the Model Cities area on the East side.

Don Millet, president of the Ohio Cable Television Association (OCTA), said the number of cable companies interested in Columbus might be explained by the "attractiveness of the market in relation to the number of signals it gets."

Without cable, Columbus receives only the three local network affiliates and one UHF channel.

"Part of what cable has to offer is selectivity in terms of broadcast signals," Millet said.

Columbus test market

Kay Wise, marketing manager for Warner Cable, said they are concentrating on Columbus because of its status as a national test city for products of all sorts, and it's position at 27th in the national television market.

None of the cable companies have any choice in the independent channels they bring in. The Federal Communications Commission (FCC) tells them which ones they may pick up and the programming may not be modified in any way.

The city ordinance also requires all cable companies to give full-time carriage to WBNS, WLWC, WOSU, and WTVN without any changes in program or advertising content.

Robert Cowak, director of marketing for Coaxial Communications, explained this is why he cannot satisfy customers who ask thar commercials be cut down, and why the cable companies can do nothing about superceded programs (where the local station pre-emps a regularly scheduled show).

Kay Wise said customer requests for more Cleveland and Cincinnati sports are also beyond the powers of the cable companies.

"If it's blacked out there, we can't show it either," she said.

Local sports planned

However, Al Williams, manager of Warner in Columbus, said they re planning to produce their own local sports shows, and gave showings of Columbus Owls hockey games as one possibility.

The FCC also requires cable companies to provide several channels of local origination. One must be educational access, one government access, and one public access, provided free of charge to the user. A fourth channel may be a commercial station.

The Board of Education and city government must be allowed to use their access channels as they see fit, although neither channel is presently being taken full advantage of in Columbus.

Columbus residents must be allowed up to five minutes for no charge on the public access channel.

Camera available

Warner has a mobile camera available to residents, which can be used by any adult who fill out the forms at Warner offices. Warner will give instructions on the use of the camera, which may then be taken to wherever the user needs to do his taping.

"We have been accepting public access material, but we're still in the build-up stage," said Nyhl Henson, program director for Warner. "We're not really encouraging it until we are completely equipped to handle it properly."

The Clintonville-Beechwold Community Resource Center (CRC) at 3175 N. High St. is presently developing plans to work with residents in promoting public access. They plan to get under way within a few weeks.

Newlon said he hopes to approach City Council with plans to use some of the revenues brought into the city by the cable companies (they must each pay a six per cent tax on their earnings to the city) ointo work in developing public access material.

Williams said he expects Warner's commercial channel to be ready "in about a month." Warner is presently building a studio in their offices at 4284 N. High St.

"A person will be able to buy an hour for literally a few dollars," Henson said. Specific rates for advertising have not yet been set.

Studio possible

Richard Howe, marketing director for All-American, said they are looking into the question of a studio, but have no concrete plans yet. Cowak of Coaxial does not believe it will be financially feasible for any cable company to produce and broadcast its own shows.

"We anticipate providing local origination, working for a break-even standing," Cowak said. "We have instituted a dialogue among the three companies to see about possible service to the entire metropolitan area with singly or multiply based local origination."

Local origination programs could create further problems for subscribers in finding out what is being shown when. Wise said a free booklet, "TV Facts," is distributed at places like supermarket check-outs which lists the offerings of the independent channels.

Subscriptions offered

One company is now offering subscriptions to "Cable TV Programs," which will come out bi-weekly at a cost of $2.25 for 10 issues.

Local television stations don't seem to be really worried about the cable in terms of competition. Benjamin McKeel of WLW-C said television broadcasters as an industry are more concerned over the possibilities of pay cable.

"We feel free entertainment will be done away with if pay cable comes," McKeel said. "If a large cable company could bid high enough to get the sports and movies now shown on the networks, the only way they could get the money back would be to charge for the showing."

Millet of OCTVA disagrees. "There's no way it could siphon off programming," he said. "Pay TV is here to stay and is a viable product."

Pay TV available

Millet said pay TV is now available in 45 communities in the nation, including Toledo, where he said it is "very successful."

Coaxial is presently experimenting with pay TV in Columbus, with 1,000 subscribers hooked up.

Cable subscribers are presently offered the three network affiliates, WOSU, two Cleveland and one Cincinnati channel, automated weather and news stations, and will soon be receiving a local origination channel. All-American also offers a community bulletin board.

Their only technical problem so far has been with system outages, where the entire picture disappears. Wise said in Warner's case, these should only last for an hour at the most.

"We generally know there is an outage even before the public knows," Wise said. "We can pinpoint the location and have crews out even before we start getting calls."

Rates regulated

Installation and monthly service charges are regulated by city council. Rates, which are now set at a maximum of $15 for installation and $5 monthly, cannot be raised without council's approval.

At this point, Wise said she knows of only one city, in Virginia, which has had a raise in rates approved.

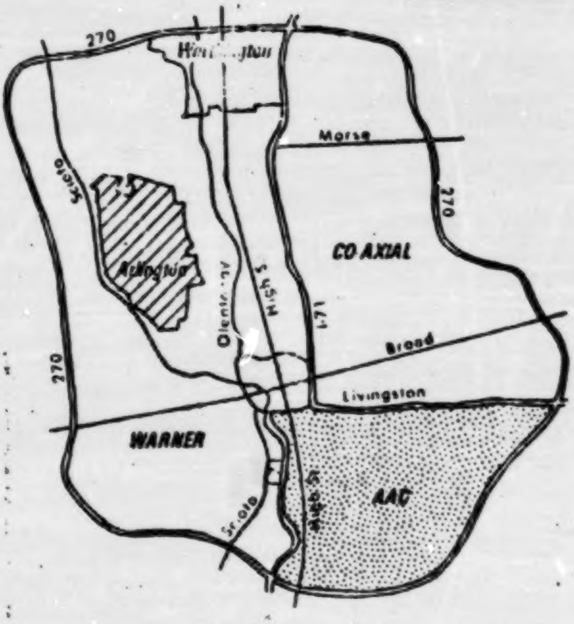
Wise said at present it only takes 48 hours for anyone requesting Warners service to have it installed. It is installed the same way as a telephone, Williams explained. A one-quarter inch wire is led from an easement, either on a utility pole or underground, to an outlet in the home.

For an additional $7.50 installation fee and an extra $1.00 per month, extra sets can be hooked.

It is not necessary to remove the outlet when a family moves, although Williams said there would be a new installation charge for the new family in the home to get it hooked up to their set.

So far, cable subscribers say they have been pleased with the service. Even the director of public utilities said he is happy with the progress the companies are making in wiring homes."

He also added that he was happy he could see one of his old favorites, "Hogan's Heroes," aired regularly by one of the independent channels the cable makes available.



MAP SHOWING the informal division of the city by the cable companies. Warner is developing the city west of I—71 including Upper Arlington but not Worthington. AAC is working south of Livingston Ave. Coaxial is installing cable east of I—71, north of Livingston Ave. and also Whitehall. The downtown area is not wired.